

ASSEMBLY, No. 5644

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JUNE 15, 2023

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Revises various changes to “New Jersey Economic Recovery Act of 2020,” including revisions to New Jersey Aspire Program.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain economic development programs and
2 amending and supplementing P.L.2020, c.156.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 55 of P.L.2020, c.156 (C.34:1B-323) is amended to
8 read as follows:

9 55. As used in sections 54 through 67 of P.L.2020, c.156
10 (C.34:1B-322 through C.34:1B-335):

11 "Agency" means the New Jersey Housing and Mortgage Finance
12 Agency established pursuant to P.L.1983, c.530 (C.55:14K-1 et
13 seq.).

14 "Authority" means the New Jersey Economic Development
15 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

16 "Aviation district" means all areas within the boundaries of the
17 Atlantic City International Airport, established pursuant to section
18 24 of P.L.1991, c.252 (C.27:25A-24), and the Federal Aviation
19 Administration William J. Hughes Technical Center and the area
20 within a one-mile radius of the outermost boundary of the Atlantic
21 City International Airport and the Federal Aviation Administration
22 William J. Hughes Technical Center.

23 "Board" means the Board of the New Jersey Economic
24 Development Authority, established by section 4 of P.L.1974, c.80
25 (C.34:1B-4).

26 "Building services" means any cleaning or routine building
27 maintenance work, including but not limited to sweeping,
28 vacuuming, floor cleaning, cleaning of rest rooms, collecting refuse
29 or trash, window cleaning, securing, patrolling, or other work in
30 connection with the care or securing of an existing building,
31 including services typically provided by a door-attendant or
32 concierge. "Building services" shall not include any skilled
33 maintenance work, professional services, or other public work for
34 which a contractor is required to pay the "prevailing wage" as
35 defined in section 2 of P.L.1963, c.150 (C.34:11-56.26).

36 "Cash flow" means the profit or loss that an investment property
37 earns from rent, deposits, and other fees after financial obligations,
38 such as debt, maintenance, government payments, and other
39 expenses, have been paid.

40 "Collaborative workspace" means coworking, accelerator,
41 incubator, or other shared working environments that promote
42 collaboration, interaction, socialization, and coordination among
43 tenants through the clustering of multiple businesses or individuals.
44 For this purpose, the collaborative workspace shall be the greater
45 of: 2,500 of dedicated square feet or 10 percent of the total property

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 on which the redevelopment project is situated. The collaborative
2 workspace shall include a community manager, be focused on
3 collaboration among the community members, and include
4 regularly scheduled education events for the community members.
5 The collaborative workspace shall also include a physical open
6 space that supports the engagement of its community members.

7 "Commercial project" means a redevelopment project, which is
8 predominantly commercial and, if located in a government-
9 restricted municipality, contains [100,000] 25,000 or more square
10 feet, or if located in any other municipality, contains 50,000 or
11 more square feet of office and retail space, industrial space, or film
12 studios, professional stages, television studios, recording studios,
13 screening rooms, or other infrastructure for film production, [for
14 purchase or lease] and may include a parking component. The term
15 "commercial project" includes a redevelopment project comprised
16 solely of a health care or health services center, which contains not
17 less than 10,000 square feet devoted to health care or health
18 services, and which may include a parking component.

19 "Developer" means a person who enters or proposes to enter into
20 an incentive award agreement pursuant to the provisions of section
21 60 of P.L.2020, c.156 (C.34:1B-328), including, but not limited, to
22 a lender that completes a redevelopment project, operates a
23 redevelopment project, or completes and operates a redevelopment
24 project.

25 "Director" means the Director of the Division of Taxation in the
26 Department of the Treasury.

27 "Distressed municipality" means a municipality that is qualified
28 to receive assistance under P.L.1978, c.14 (C.52:27D-178 et seq.), a
29 municipality under the supervision of the Local Finance Board
30 pursuant to the provisions of the "Local Government Supervision
31 Act (1947)," P.L.1947, c.151 (C.52:27BB-1 et seq.), a municipality
32 identified by the Director of the Division of Local Government
33 Services in the Department of Community Affairs to be facing
34 serious fiscal distress, a SDA municipality, or a municipality in
35 which a major rail station is located.

36 "Economic development incentive" means a financial incentive,
37 awarded by the authority, or agreed to between the authority and a
38 business or person, for the purpose of stimulating economic
39 development or redevelopment in New Jersey, including, but not
40 limited to, a bond, grant, loan, loan guarantee, matching fund, tax
41 credit, or other tax expenditure.

42 "Eligibility period" means the period not to exceed 15 years for a
43 commercial or mixed-use project or the period not to exceed 10
44 years for a residential project specified in an incentive award
45 agreement during which a developer may claim a tax credit under
46 the program, as such period shall be determined by the authority
47 pursuant to subsection b. of section 60 of P.L.2020, c.156 (C.34:1B-
48 328).

1 "Enhanced area" means (1) a municipality that contains an urban
2 transit hub, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
3 208); (2) the five municipalities with the highest poverty rates
4 according to the 2017 Municipal Revitalization Index; and (3) the
5 three municipalities with the highest percentage of SNAP recipients
6 according to the 2017 Municipal Revitalization Index.

7 "Environmental remediation costs" means any costs incurred by
8 a developer in the completion of any actions necessary to
9 investigate, clean up, or respond to a known, suspected, or
10 threatened discharge of contaminants, including, as necessary, the
11 preliminary assessment, site investigation, remedial investigation,
12 and remedial action, pursuant to sections 23 through 43 and section
13 45 of P.L.1993, c.139 (C.58:10B-1 et seq.).

14 "Food delivery source" means access to nutritious foods, such as
15 fresh fruits and vegetables, through grocery operators, including,
16 but not limited to a full-service supermarket or grocery store, and
17 other healthy food retailers of at least 16,000 square feet, including,
18 but not limited to, a prepared food establishment selling primarily
19 nutritious ready-to-serve meals.

20 "Food desert community" means a physically contiguous area in
21 the State in which residents have limited access to nutritious foods,
22 such as fresh fruits and vegetables, and that has been designated as
23 a food desert community pursuant to subsection b. of section 38 of
24 P.L.2020, c.156 (C.34:1B-306).

25 "Government-restricted municipality" means a municipality in
26 this State with a municipal revitalization index distress score of at
27 least 75, that met the criteria for designation as an urban aid
28 municipality in the 2019 State fiscal year, and that, on the effective
29 date of P.L.2020, c.156 (C.34:1B-269 et al.), is subject to financial
30 restrictions imposed pursuant to the "Municipal Stabilization and
31 Recovery Act," P.L.2016, c.4 (C.52:27BBBB-1 et seq.), or is
32 restricted in its ability to levy property taxes on property in that
33 municipality as a result of the State of New Jersey owning or
34 controlling property representing at least 25 percent of the total land
35 area of the municipality or as a result of the federal government of
36 the United States owning or controlling at least 50 acres of the total
37 land area of the municipality, which is dedicated as a national
38 natural landmark.

39 "Health care or health services center" means an establishment
40 that consists of not less than 10,000 square feet devoted to health
41 care or health services, where patients are admitted for or seek
42 examination and treatment by one or more physicians, dentists,
43 psychologists, or other medical practitioners, and which is located
44 in a municipality that lacks adequate access to health care services,
45 as annually determined by the Commissioner of Health.

46 "Hospitality establishment" means a hotel, motel, or any
47 business, however organized, that sells food, beverages, or both for
48 consumption by patrons on the premises.

1 "Incentive area" means an aviation district [.] ; a port district [,
2 or] ; an area designated pursuant to the "State Planning Act,"
3 P.L.1985, c.398 (C.52:18A-196 et seq.), as Planning Area 1
4 (Metropolitan), Planning Area 2 (Suburban), or a Designated
5 Center, provided an area designated as Planning Area 2 (Suburban)
6 or a Designated Center shall be located within a one-half mile
7 radius of the mid-point, with bicycle and pedestrian connectivity, of
8 a New Jersey Transit Corporation, Port Authority Transit
9 Corporation, or Port Authority Trans-Hudson Corporation rail, bus,
10 or ferry station, including all light rail stations, or a high frequency
11 bus stop as certified by the New Jersey Transit Corporation; and an
12 area designated as a brownfield site pursuant to the "Brownfield and
13 Contaminated Site Remediation Act," sections 23 through 43 and
14 section 45 of P.L.1993, c.139 (C.58:10B-1 et seq.), provided that
15 any portion of the brownfield site is located in an area that
16 otherwise qualifies as an incentive area.

17 "Incentive award" means an award of tax credits to reimburse a
18 developer for all or a portion of the project financing gap of a
19 redevelopment project pursuant to the provisions of sections 54
20 through 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

21 "Incentive award agreement" means the contract executed
22 between a developer and the authority pursuant to section 60 of
23 P.L.2020, c.156 (C.34:1B-328), which sets forth the terms and
24 conditions under which the developer may receive the incentive
25 awards authorized pursuant to the provisions of sections 54 through
26 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335).

27 "Incubator facility" means a commercial property, which
28 contains 5,000 or more square feet of office, laboratory, or
29 industrial space, which is located near, and presents opportunities
30 for collaboration with, a research institution, teaching hospital,
31 college, or university, and within which at least 75 percent of the
32 gross leasable area is restricted for use by one or more technology
33 startup companies.

34 "Individuals with special needs" means individuals with mental
35 illness, individuals with physical or developmental disabilities, and
36 individuals in other emerging special needs groups identified by the
37 authority, based on guidelines established for the administration of
38 the Special Needs Housing Trust Fund established pursuant to
39 section 1 of P.L.2005, c.163 (C.34:1B-21.25a) or developed in
40 consultation with other State agencies.

41 "Labor harmony agreement" means an agreement between a
42 business that serves as the owner or operator of a retail
43 establishment, hospitality establishment, or distribution center and
44 one or more labor organizations, which requires, for the duration of
45 the agreement: that any participating labor organization and its
46 members agree to refrain from picketing, work stoppages, boycotts,
47 or other economic interference against the business; and that the
48 business agrees to maintain a neutral posture with respect to efforts

1 of any participating labor organization to represent employees at an
2 establishment or other unit in the retail establishment, hospitality
3 establishment, or distribution center, agrees to permit the labor
4 organization to have access to the employees, and agrees to
5 guarantee to the labor organization the right to obtain recognition as
6 the exclusive collective bargaining representatives of the employees
7 in an establishment or unit at the retail establishment, hospitality
8 establishment, or distribution center by demonstrating to the New
9 Jersey State Board of Mediation, Division of Private Employment
10 Dispute Settlement, or a mutually agreed-upon, neutral, third-party
11 that a majority of workers in the unit have shown their preference
12 for the labor organization to be their representative by signing
13 authorization cards indicating that preference. The labor
14 organization or organizations shall be from a list of labor
15 organizations which have requested to be on the list and which the
16 Commissioner of Labor and Workforce Development has
17 determined represent substantial numbers of retail establishment,
18 hospitality establishment, or distribution center employees in the
19 State.

20 "Low-income housing" means housing affordable according to
21 federal Department of Housing and Urban Development or other
22 recognized standards for home ownership and rental costs and
23 occupied or reserved for occupancy by households with a gross
24 household income equal to 50 percent or less of the median gross
25 household income for households of the same size within the
26 housing region in which the housing is located.

27 "Major cultural institution" means a public or nonprofit
28 institution, not including an institution of higher education, within
29 this State that engages in the cultural, intellectual, scientific,
30 environmental, educational, or artistic enrichment of the people of
31 this State, and which institution is designated by the board as a
32 major cultural institution.

33 "Major rail station" means a railroad station that is located within
34 a qualified incentive area and that provides to the public access to a
35 minimum of six rail passenger service lines operated by the New
36 Jersey Transit Corporation.

37 "Minimum environmental and sustainability standards" means
38 standards established by the authority in accordance with the green
39 building manual prepared by the Commissioner of Community
40 Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6),
41 regarding the use of renewable energy, energy-efficient technology,
42 and non-renewable resources to reduce environmental degradation
43 and encourage long-term cost reduction.

44 "Moderate-income housing" means housing affordable according
45 to federal Department of Housing and Urban Development or other
46 recognized standards for home ownership and rental costs and
47 occupied or reserved for occupancy by households with a gross
48 household income equal to more than 50 percent, but less than 80

1 percent, of the median gross household income for households of
2 the same size within the housing region in which the housing is
3 located.

4 "Municipal Revitalization Index" means the index by the
5 Department of Community Affairs ranking New Jersey's
6 municipalities according to eight separate indicators that measure
7 diverse aspects of social, economic, physical, and fiscal conditions
8 in each locality.

9 "Port district" means the portions of a qualified incentive area
10 that are located within:

11 a. the "Port of New York District" of the Port Authority of
12 New York and New Jersey, as defined in Article II of the Compact
13 Between the States of New York and New Jersey of 1921; or

14 b. a 15-mile radius of the outermost boundary of each marine
15 terminal facility established, acquired, constructed, rehabilitated, or
16 improved by the South Jersey Port District established pursuant to
17 "The South Jersey Port Corporation Act," P.L.1968, c.60
18 (C.12:11A-1 et seq.).

19 "Program" means the New Jersey Aspire Program established by
20 section 56 of P.L.2020, c.156 (C.34:1B-324).

21 "Project cost" means the costs incurred in connection with a
22 redevelopment project by a developer until the issuance of a
23 permanent certificate of occupancy, or until such other time
24 specified by the authority, for a specific investment or
25 improvement, including the costs relating to lands, except the cost
26 of acquiring such lands, buildings, improvements, real or personal
27 property, or any interest therein, including leases discounted to
28 present value, including lands under water, riparian rights, space
29 rights, and air rights acquired, owned, developed or redeveloped,
30 constructed, reconstructed, rehabilitated, or improved, any
31 environmental remediation costs, plus costs not directly related to
32 construction, including capitalized interest paid to third parties, of
33 an amount not to exceed 20 percent of the total costs and the cost of
34 infrastructure improvements, including ancillary infrastructure
35 projects. When 100 percent of the residential units constructed in a
36 residential project are reserved for occupancy by low- and
37 moderate-income households, the term "project cost" shall also
38 include the developer fees paid before acquiring permanent
39 financing, as well as the deferred developer fees approved pursuant
40 to the rules established by the agency. The fees associated with the
41 application or administration of a grant under sections 54 through
42 67 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) shall not
43 constitute a project cost.

44 "Project financing gap" means the part of the total project cost,
45 including reasonable and appropriate return on investment, that
46 remains to be financed after all other sources of capital have been
47 accounted for, including, but not limited to developer contributed
48 capital, which shall not be less than 20 percent of the total project

1 cost, and investor or financial entity capital or loans for which the
2 developer, after making all good faith efforts to raise additional
3 capital, certifies that additional capital cannot be raised from other
4 sources on a non-recourse basis; provided, however, that for a
5 redevelopment project located in a government-restricted
6 municipality, the developer contributed capital shall not be less than
7 10 percent of the total project cost. Developer contributed capital
8 may consist of cash, deferred development fees, costs for project
9 feasibility incurred within the 12 months prior to application,
10 property value less any mortgages when the developer owns the
11 project site, and any other investment by the developer in the
12 project deemed acceptable by the authority, as provided by
13 regulations promulgated by the authority. Property value shall be
14 valued at the lesser of: (i) the purchase price, provided the property
15 was purchased pursuant to an arm's length transaction within 12
16 months of application; or (ii) the value as determined by a current
17 appraisal.

18 "Project labor agreement" means a form of pre-hire collective
19 bargaining agreement covering terms and conditions of a specific
20 project that satisfies the requirements set forth in section 5 of
21 P.L.2002, c.44 (C.52:38-5).

22 "Qualified incentive tract" means (i) a population census tract
23 having a poverty rate of 20 percent or more; or (ii) a census tract in
24 which the median family income for the census tract does not
25 exceed 80 percent of the greater of the Statewide median family
26 income or the median family income of the metropolitan statistical
27 area in which the census tract is situated.

28 "Quality childcare facility" is a child care center licensed by the
29 Department of Children and Families or a registered family child
30 care home with the Department of Human Services, operating
31 continuously, which has not been subject to an enforcement action,
32 and which has and maintains a licensed capacity for children age 13
33 years or younger who attend for less than 24 hours a day.

34 "Reasonable and appropriate return on investment" means the
35 discount rate at which the present value of the future cash flows of
36 an investment equals the cost of the investment. In determining the
37 "reasonable and appropriate return on investment," an investment
38 shall not include any federal, State, or local tax credits. For a
39 residential project that utilizes federal low-income housing tax
40 credits awarded by the agency, the "reasonable and appropriate
41 return on investment" shall be based on the approval of deferred
42 developer fees pursuant to the rules established by the agency. In
43 the event that a residential project, which utilizes federal low-
44 income housing tax credits awarded by the agency, generates
45 returns on equity other than federal or local grants or proceeds from
46 the sale of federal or local tax credits, the "reasonable and
47 appropriate return on investment" shall be based on both the
48 discount rate at which the present value of the future cash flows of

1 an investment equal the cost of the investment for the entire project,
2 and when evaluating only the units financed with federal low-
3 income housing tax credits awarded by the agency, the approval of
4 deferred developer fees pursuant to the rules established by the
5 agency.

6 "Redevelopment project" means a specific construction project
7 or improvement or phase of a project or improvement undertaken
8 by a developer, owner or tenant, or both, and any ancillary
9 infrastructure project. A redevelopment project may involve
10 construction or improvement upon lands, buildings, improvements,
11 or real and personal property, or any interest therein, including
12 lands under water, riparian rights, space rights, and air rights,
13 acquired, owned, developed or redeveloped, constructed,
14 reconstructed, rehabilitated, or improved.

15 "Residential project" means a redevelopment project that is
16 predominantly residential, intended for multi-family residency, and
17 may include a parking component.

18 "SDA district" means an SDA district as defined in section 3 of
19 P.L.2000, c.72 (C.18A:7G-3).

20 "SDA municipality" means a municipality in which an SDA
21 district is situated.

22 "Technology startup company" means a for-profit business that
23 has been in operation fewer than seven years at the time that it
24 initially occupies or expands in a qualified business facility and is
25 developing or possesses a proprietary technology or business
26 method of a high technology or life science-related product,
27 process, or service, which proprietary technology or business
28 method the business intends to move to commercialization. The
29 business shall be deemed to have begun operation on the date that
30 the business first hired at least one employee in a full-time position.

31 "Total project cost" means the costs incurred in connection with
32 the redevelopment project by the developer until the issuance of a
33 permanent certificate of occupancy, or upon such other event
34 evidencing project completion as set forth in the incentive grant
35 agreement, for a specific investment or improvement.

36 "Tourism destination project" means a non-gaming business
37 facility that will be among the most visited privately owned or
38 operated tourism or recreation sites in the State, and which has been
39 determined by the authority to be in an area appropriate for
40 development and in need of economic development incentive
41 assistance, including a non-gaming business within an established
42 Tourism District with a significant impact on the economic viability
43 of that district.

44 "Transit hub" means an urban transit hub, as defined in section 2
45 of P.L.2007, c.346 (C.34:1B-208), that is located within an eligible
46 municipality, as defined in section 2 of P.L.2007, c.346 (C.34:1B-
47 208) and **【also】** is located within a qualified incentive area.

1 "Transit hub municipality" means a Transit Village or a
2 municipality: a. which qualifies for State aid pursuant to P.L.1978,
3 c.14 (C.52:27D-178 et seq.), or which has continued to be a
4 qualified municipality thereunder pursuant to P.L.2007, c.111; and
5 b. in which 30 percent or more of the value of real property was
6 exempt from local property taxation during tax year 2006. The
7 percentage of exempt property shall be calculated by dividing the
8 total exempt value by the sum of the net valuation which is taxable
9 and that which is tax exempt.

10 "Transit Village" means a municipality that has been designated
11 as a transit village by the Commissioner of Transportation and the
12 Transit Village Task Force established pursuant to P.L.1985, c.398
13 (C.27:1A-5).

14 (cf: P.L.2021, c.160, s.22)

15
16 2. Section 56 of P.L.2020, c.156 (C.34:1B-324) is amended to
17 read as follows:

18 56. a. (1) The New Jersey Aspire Program is hereby
19 established as a program under the jurisdiction of the New Jersey
20 Economic Development Authority. The authority shall administer
21 the program to encourage redevelopment projects through the
22 provision of incentive awards to reimburse developers for certain
23 project financing gap costs. The board may approve the award of
24 an incentive award to a developer upon application to the authority
25 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
26 C.34:1B-327). The value of all tax credits approved by the
27 authority pursuant to sections 54 through 67 of P.L.2020, c.156
28 (C.34:1B-322 through C.34:1B-335) **[.]** shall be subject to the
29 limitations set forth in section 98 of P.L.2020, c.156 (C.34:1B-362).

30 (2) The authority, in consultation with the agency, shall adopt
31 rules and regulations, pursuant to subsection b. of section 67 of
32 P.L.2020, c.156 (C.34:1B-335), concerning the establishment and
33 administration of the affordability controls that shall apply to the
34 residential units constructed for occupancy by low- and moderate-
35 income households under the program, including, but not limited to,
36 residential units within residential projects that utilize federal low-
37 income housing tax credits awarded by the agency.
38 Notwithstanding any provision of law or regulation to the contrary,
39 the affordability controls shall, at a minimum, be consistent with the
40 affordability controls established in the rules and regulations
41 adopted pursuant to the "Fair Housing Act," P.L.1985, c.222
42 (C.52:27D-301 et al.), as in effect immediately prior to the effective
43 date of P.L. , c. (C.) (pending before the Legislature as this
44 bill), including, but not limited to, any requirements concerning the
45 bedroom distributions, affordability averages, affirmative
46 marketing, and long-term deed restrictions of residential units
47 constructed for occupancy by low- and moderate-income
48 households.

1 b. The chief executive officer of the authority shall designate
2 one staff member per government-restricted municipality in order to
3 keep the municipality informed on activities within the municipality
4 and to coordinate economic development initiatives.

5 (cf: P.L.2020, c.156, s.56)

6
7 3. Section 57 of P.L.2020, c.156 (C.34:1B-325) is amended to
8 read as follows:

9 57. a. Prior to March 1, **[2027]** 2029, a developer shall be
10 eligible to receive an incentive award for a redevelopment project
11 only if the developer demonstrates to the authority at the time of
12 application that:

13 (1) without the incentive award, the redevelopment project is
14 not economically feasible;

15 (2) a project financing gap exists, or the authority determines
16 that the redevelopment project will generate a below market rate of
17 return;

18 (3) the redevelopment project, except a film studio, professional
19 stage, television studio, recording studio, screening room, or other
20 infrastructure used for film production, is located in the incentive
21 area;

22 (4) except for demolition and site remediation activities, the
23 developer has not commenced any construction at the site of the
24 redevelopment project prior to submitting an application, unless the
25 authority determines that the redevelopment project would not be
26 completed otherwise or, in the event the redevelopment project is to
27 be undertaken in phases, the requested incentive award is limited to
28 only phases for which construction has not yet commenced;

29 (5) the redevelopment project shall comply with minimum
30 environmental and sustainability standards;

31 (6) the redevelopment project shall comply with the authority's
32 affirmative action requirements, adopted pursuant to section 4 of
33 P.L.1979, c.303 (C.34:1B-5.4);

34 (7) (a) during the eligibility period, each worker employed to
35 perform construction work **[or building services work]** at the
36 redevelopment project shall be paid not less than the prevailing
37 wage rate for the worker's craft or trade, as determined by the
38 Commissioner of Labor and Workforce Development pursuant to
39 P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379
40 (C.34:11-56.58 et seq.). **[. In the event]** ; or

41 (b) during the eligibility period, each worker employed to
42 perform building services work at the redevelopment project shall
43 be paid not less than the prevailing wage rate for the worker's craft
44 or trade, as determined by the Commissioner of Labor and
45 Workforce Development pursuant to P.L.1963, c.150 (C.34:11-
46 56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.), except
47 that: (i) this requirement shall not apply to workers employed to
48 perform building services work by a tenant that has a leasehold

1 interest in a redevelopment project, which leasehold interest
2 encompasses less than 5,000 square feet of space within the project;
3 and (ii) if a redevelopment project is undertaken by a tenant and the
4 tenant has a leasehold of more than 55 percent of space in the
5 building owned or controlled by the developer, [the] this
6 requirement [that each worker employed to perform building
7 service work at the building be paid not less than the prevailing
8 wage] shall apply to the entire building, except as otherwise
9 provided in sub-subparagraph (i) of this subparagraph;

10 (8) (a) the redevelopment project shall be completed, and the
11 developer shall be issued a certificate of occupancy for the
12 redevelopment project facilities by the applicable enforcing agency
13 within four years of executing the incentive award agreement, or in
14 the case of a redevelopment project with a project cost in excess of
15 \$50,000,000, the incentive phase agreement corresponding to the
16 redevelopment project; or

17 (b) in the discretion of the authority, a redevelopment project
18 with a project cost in excess of \$50,000,000, and that is authorized
19 to be completed in phases, may be allowed no more than six years
20 from the date on which the incentive award agreement is executed
21 to be issued a certificate of occupancy by the applicable
22 enforcement agency;

23 (9) the developer has complied with all requirements for filing
24 tax and information returns and for paying or remitting required
25 State taxes and fees by submitting, as a part of the application, a tax
26 clearance certificate, as described in section 1 of P.L.2007, c.101
27 (C.54:50-39); and

28 (10) the developer is not more than 24 months in arrears at the
29 time of application.

30 b. In addition to the requirements set forth in subsection a. of
31 this section, for a commercial project to qualify for an incentive
32 award the developer shall demonstrate that the developer shall
33 contribute capital of at least 20 percent of the total project cost,
34 except that if a redevelopment project is located in a government-
35 restricted municipality, the developer shall contribute capital of at
36 least 10 percent of the total project cost.

37 c. In addition to the requirements set forth in subsection a. of
38 this section, for a residential project or a commercial project
39 comprised solely of a health care or health service center to qualify
40 for an incentive award, the residential project or health care or
41 health service center shall:

42 (1) have a total project cost of at least \$17,500,000, if the
43 project is located in a municipality with a population greater than
44 200,000 according to the latest federal decennial census;

45 (2) have a total project cost of at least \$10,000,000 if the project
46 is located in a municipality with a population less than 200,000
47 according to the latest federal decennial census; or

1 (3) have a total project cost of at least \$5,000,000 if the project
2 is in a qualified incentive tract or government-restricted
3 municipality.

4 d. In addition to the requirements set forth in subsections a. and
5 c. of this section, for a residential project consisting of newly-
6 constructed residential units to qualify for an incentive award, the
7 developer shall reserve at least 20 percent of the residential units
8 constructed for occupancy by low- and moderate-income
9 households with affordability controls as **required under the "Fair**
10 **Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)** **adopted by**
11 **the authority, in consultation with the agency, in accordance with**
12 **paragraph (2) of subsection a. of section 56 of P.L.2020, c.156**
13 **(C.34:1B-324), except that a residential project receiving a federal**
14 **historic rehabilitation tax credit pursuant to section 47 of the federal**
15 **Internal Revenue Code of 1986, 26 U.S.C. s.47, or a tax credit**
16 **pursuant to the "Historic Property Reinvestment Act," sections 2**
17 **through 8 of P.L.2020, c.156 (C.34:1B-270 through C.34:1B-276),**
18 **shall be exempt from the affordability controls related to bedroom**
19 **distribution.**

20 e. Prior to the board considering an application submitted by a
21 developer, the authority shall confirm with the Department of Labor
22 and Workforce Development, the Department of Environmental
23 Protection, and the Department of the Treasury whether the
24 developer is in substantial good standing with the respective
25 department, or has entered into an agreement with the respective
26 department that includes a practical corrective action plan for the
27 developer. The developer shall certify that any contractors or
28 subcontractors that will perform work at the redevelopment project:
29 (1) are registered as required by "The Public Works Contractor
30 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) have
31 not been debarred by the Department of Labor and Workforce
32 Development from engaging in or bidding on Public Works
33 Contracts in the State; and (3) possess a tax clearance certificate
34 issued by the Division of Taxation in the Department of the
35 Treasury. The authority may also contract with an independent
36 third party to perform a background check on the developer.

37 (cf: P.L.2021, c.160, s.23)

38

39 4. Section 58 of P.L.2020, c.156 (C.34:1B-326) is amended to
40 read as follows:

41 58. a. Prior to March 1, **2027** 2029, for redevelopment
42 projects eligible pursuant to section 57 of P.L.2020, c.156
43 (C.34:1B-325) for which a developer is seeking an incentive award
44 for the redevelopment project, the developer shall submit an
45 application to the authority and, in the case of a residential project,
46 shall submit an application to the authority and the agency, in a
47 form and manner prescribed in regulations adopted by the authority
48 **[, in consultation with the agency,]** pursuant to **[the provisions of**

1 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
2 seq.) **】** section 67 of P.L.2020, c.156 (C.34:1B-335). The authority
3 shall accept applications for incentive awards during the grant
4 periods established pursuant to section 59 of P.L.2020, c.156
5 (C.34:1B-327).

6 b. The authority shall not consider an application for a
7 commercial project unless the developer submits a letter evidencing
8 support for the commercial project from the governing body of the
9 municipality in which the commercial project is located with the
10 application.

11 c. The authority shall review the project cost, evaluate and
12 validate the project financing gap estimated by the developer, and
13 conduct a State fiscal impact analysis to ensure that the overall
14 public assistance provided to the project will result in a net positive
15 benefit to the State, provided that the net benefit analysis shall not
16 apply to capital investment for a food delivery source; a health care
17 or health services center **【**with a minimum of 10,000 square feet of
18 space devoted to health care or health services that is located in a
19 municipality with a Municipal Revitalization Index distress score of
20 at least 50 lacking adequate access, as determined by the
21 Commissioner of Health**】**; or a residential project. In determining
22 whether a project will result in a net positive benefit to the State,
23 the authority shall not consider the value of any taxes exempted,
24 abated, rebated, or retained under the "Five-Year Exemption and
25 Abatement Law," P.L.1991, c.441 (C.40A:21-1 et seq.), the "Long
26 Term Tax Exemption Law," P.L.1991, c.431 (C.40A:20-1 et al.),
27 the "New Jersey Urban Enterprise Zones Act," P.L.1983, c.303
28 (C.52:27H-60 et seq.), or any other law that has the effect of
29 lowering or eliminating the developer's State or local tax liability.
30 The determination made pursuant to this subsection shall be based
31 on the potential tax liability of the developer without regard for
32 potential tax losses if the developer were to locate in another state.
33 The authority shall assess the cost of these reviews to the applicant.
34 A developer shall pay to the authority the full amount of the direct
35 costs of an analysis concerning the developer's application for a tax
36 credit that a third party retained by the authority performs, if the
37 authority deems such retention to be necessary. The authority shall
38 evaluate the net economic benefits on a present value basis under
39 which the requested tax credit allocation amount is discounted to
40 present value at the same discount rate as the projected benefits
41 from the implementation of the proposed redevelopment project for
42 which an award of tax credits is being sought.

43 d. (1) For a redevelopment project subject to the requirement
44 of subsection c. of this section to be eligible for any tax credits
45 under the program, a developer shall demonstrate to the authority
46 that the award of tax credits will yield a net positive benefit to the
47 State equaling an amount determined by the authority through
48 regulation that exceeds the requested tax credit amount. The

1 developer shall certify, under the penalty of perjury, that all
2 documents submitted, and factual assertions made, to the authority
3 to demonstrate that the award of tax credits will yield a net positive
4 benefit to the State in accordance with this subsection are true and
5 accurate at the time of submission.

6 (2) A redevelopment project located in a government-restricted
7 municipality shall yield a net positive benefit to the State that
8 exceeds the requested tax credit amount, but the net benefit
9 requirement set by the authority for such redevelopment projects
10 may be up to 35 percentage points lower than the net benefit
11 requirement set by the authority for all other eligible redevelopment
12 projects.

13 (3) A commercial project that contains 50,000 or more square
14 feet of space devoted to research or technology focused incubator
15 and conferencing facilities for one or more institutions of higher
16 education or non-profit organizations, and which has a total project
17 cost of not less than \$50 million, shall yield a net positive benefit to
18 the State that exceeds the requested tax credit amount, but the net
19 benefit requirement set by the authority for such redevelopment
20 projects may be up to 35 percentage points lower than the net
21 benefit requirement set by the authority for all other eligible
22 redevelopment projects.

23 (4) A redevelopment project that is predominantly commercial
24 and that receives a federal historic rehabilitation tax credit pursuant
25 to section 47 of the federal Internal Revenue Code of 1986, 26
26 U.S.C. s.47, or a tax credit pursuant to the "Historic Property
27 Reinvestment Act," sections 2 through 8 of P.L.2020, c.156
28 (C.34:1B-270 through C.34:1B-276), shall yield a net positive
29 benefit to the State that exceeds the requested tax credit amount, but
30 the net benefit requirement set by the authority for such
31 redevelopment projects may be up to 35 percentage points lower
32 than the net benefit requirement set by the authority for all other
33 eligible redevelopment projects.

34 (5) A redevelopment project that is undertaken by a major
35 cultural institution to renovate existing space or expand services
36 into additional space, and in which the major cultural institution
37 realizes all returns from the redevelopment project, shall yield a net
38 positive benefit to the State that exceeds the requested tax credit
39 amount, but the net benefit requirement set by the authority for such
40 redevelopment projects may be lower than the net benefit
41 requirement set by the authority for all other eligible redevelopment
42 projects.

43 e. If at any time during the eligibility period the authority
44 determines that the developer made a material misrepresentation on
45 the developer's application, the developer shall forfeit the incentive
46 award.

47 f. If circumstances require a developer to amend its application
48 to the authority, then the developer, or an authorized agent of the

1 developer, shall certify to the authority that the information
2 provided in its amended application is true under the penalty of
3 perjury.

4 (cf: P.L.2021, c.160, s.24)

5
6 5. Section 59 of P.L.2020, c.156 (C.34:1B-327) is amended to
7 read as follows:

8 59. a. Prior to March 1, **2027** 2029, for redevelopment
9 projects eligible pursuant to section 57 of P.L.2020, c.156
10 (C.34:1B-325), the authority shall award incentive awards based on
11 the order in which complete, qualifying applications were received
12 by the authority. If a developer intends to apply to both the
13 authority and the agency for subsidies, the developer shall notify
14 the agency simultaneously with any application made to the
15 authority. The authority shall transmit its grant determination for
16 such residential projects to the agency along with any information
17 developed by the authority and confirmation of the authority's intent
18 to provide an incentive award or award to the project. Approval of
19 an application by the agency shall be the final determination
20 required for an incentive award for a residential project under this
21 section.

22 b. Prior to allocating an incentive award to a redevelopment
23 project, the authority shall confirm with the Department of Labor
24 and Workforce Development, the Department of Environmental
25 Protection, and the Department of the Treasury that the developer is
26 in substantial good standing with the respective department, or a
27 developer not in substantial good standing with each department has
28 entered into an agreement with the respective department that
29 includes a practical corrective action plan for the developer, and
30 that the developer shall confirm that each contractor or
31 subcontractor performing work at the redevelopment project: (1) is
32 registered as required by "The Public Works Contractor
33 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
34 not been debarred by the Department of Labor and Workforce
35 Development from engaging in or bidding on Public Works
36 Contracts in the State; and (3) possesses a tax clearance certificate
37 issued by the Division of Taxation in the Department of the
38 Treasury. The authority may also contract with an independent
39 third party to perform a background check on the developer.
40 Provided that the developer, and all contractors and subcontractors,
41 are in compliance with this subsection, the authority shall allocate
42 incentive awards to redevelopment projects according to the
43 redevelopment project's score and until either the available
44 incentive awards are exhausted or all redevelopment projects
45 obtaining the minimum score receive an incentive award, whichever
46 occurs first. If insufficient funding exists to fully fund all eligible
47 projects, a project may be offered partial funding.

48 (cf: P.L.2021, c.160, s.25)

1 6. Section 60 of P.L.2020, c.156 (C.34:1B-328) is amended to
2 read as follows:

3 60. a. (1) Following approval and selection of an application
4 pursuant to sections 58 and 59 of P.L.2020, c.156 (C.34:1B-326 and
5 C.34:1B-327), the authority shall enter into an incentive award
6 agreement with the developer. The chief executive officer of the
7 authority shall negotiate the terms and conditions of the incentive
8 award agreement on behalf of the State.

9 (2) For a phased project, the incentive phase agreement shall set
10 forth, for each phase of the project and for the total project, the
11 capital investment requirements and the time periods in which each
12 phase of the project shall be commenced and completed. The
13 awarding of tax credits shall be conditioned on the developer's
14 compliance with the requirements of the agreement. A
15 redevelopment project may be completed in phases in accordance
16 with rules adopted by the authority if the redevelopment project has
17 a total project cost in excess of \$50,000,000.

18 b. An incentive award agreement shall specify the amount of
19 the incentive award the authority shall award to the developer and
20 the duration of the eligibility period **【, which】** . The duration of the
21 eligibility period shall not exceed 15 years for a commercial or
22 mixed-use project and shall not exceed 10 years for a residential
23 project, except that to reduce the total value of tax credits needed to
24 reimburse a developer for all or part of the project financing gap of
25 a redevelopment project, the authority may, in its discretion,
26 approve a duration for the eligibility period that is shorter than the
27 applicable maximum periods. The incentive award agreement shall
28 provide an estimated date of completion and include a requirement
29 for periodic progress reports, including the submittal of executed
30 financing commitments and documents that evidence site control.
31 If the authority does not receive periodic progress reports, or if the
32 progress reports demonstrate unsatisfactory progress, then the
33 authority may rescind the incentive award. If the authority rescinds
34 an incentive award in the same calendar year in which the authority
35 approved the incentive award, then the authority may assign the
36 incentive award to another applicant. The incentive award
37 agreement may also provide for a verification of the financing gap
38 at the time the developer provides executed financing commitments
39 to the authority and a verification of the developer's projected cash
40 flow at the time of certification that the project is completed.

41 c. To ensure the protection of taxpayer money, if the authority
42 determines at project certification that the actual capital financing
43 approach utilized by the project has resulted in a financing gap that
44 is smaller than the financing gap determined at board approval, the
45 authority shall reduce the amount of the tax credit or accept
46 payment from the developer on a pro rata basis. If there is no
47 project financing gap due to the actual capital financing approach
48 utilized by the project, then the developer shall forfeit the incentive

1 award. At the end of the seventh year of the eligibility period, the
2 authority shall evaluate the developer's rate of return on investment
3 and compare that rate of return on investment to the reasonable and
4 appropriate rate of return at the time of board approval. If the
5 actual rate of return on investment exceeds the reasonable and
6 appropriate rate of return on investment at the time of board
7 approval by more than 15 percent, the authority shall require the
8 developer to pay up to 20 percent of the amount in excess of the
9 reasonable and appropriate rate of return on investment. The
10 authority shall require an escrow account to be held by the authority
11 until the end of the eligibility period. Following the final year of
12 the eligibility period, the authority shall determine if the developer's
13 rate of return exceeded the reasonable and appropriate rate of return
14 determined at board approval. If the final rate of return does not
15 exceed the reasonable and appropriate rate of return determined at
16 board approval, the authority shall release to the developer the
17 escrowed funds. If the project final rate of return exceeds the
18 reasonable and appropriate rate of return determined at board
19 approval, the authority shall require the developer to pay up to 20
20 percent of the amount of the excess, which shall include the funds
21 held in escrow, and such funds shall be deposited in the State
22 General Fund.

23 d. The incentive award agreement shall include a requirement
24 that the authority confirm with the Department of Environmental
25 Protection, the Department of Labor and Workforce Development,
26 and the Department of the Treasury that the developer is in
27 substantial good standing with the respective department, or the
28 developer has entered into an agreement with the respective
29 department that includes a practical corrective action for the
30 developer, and the developer shall confirm that each contractor or
31 subcontractor performing work at the redevelopment project: (1) is
32 registered as required by "The Public Works Contractor
33 Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has
34 not been debarred by the Department of Labor and Workforce
35 Development from engaging in or bidding on Public Works
36 Contracts in the State; and (3) possesses a tax clearance certificate
37 issued by the Division of Taxation in the Department of the
38 Treasury. The incentive award agreement shall also include a
39 provision that the developer shall forfeit the incentive award in any
40 year in which the developer is neither in substantial good standing
41 with each department nor has entered into a practical corrective
42 action. The incentive award agreement shall also require a
43 developer to engage in on-site consultations with the Division of
44 Workplace Safety and Health in the Department of Health.

45 e. (1) Except as provided in paragraph (2) of this subsection,
46 the authority shall not enter into an incentive award agreement for a
47 redevelopment project that includes at least one retail establishment
48 which will have more than 10 employees, at least one distribution

1 center which will have more than 20 employees, or at least one
2 hospitality establishment which will have more than 10 employees,
3 unless the incentive award agreement includes a precondition that
4 any business that serves as the owner or operator of the retail
5 establishment **【or】**, distribution center, or hospitality establishment
6 enters into a labor harmony agreement with a labor organization or
7 cooperating labor organizations which represent retail
8 establishment, hospitality establishment, or distribution center
9 employees in the State.

10 (2) A labor harmony agreement shall be required only if the
11 State has a proprietary interest in the redevelopment project and
12 shall remain in effect for as long as the State acts as a market
13 participant in the redevelopment project. The authority may enter
14 into an incentive award agreement with a developer without the
15 labor harmony agreement required under paragraph (1) of this
16 subsection if the authority determines that the redevelopment
17 project would not be able to go forward if a labor harmony
18 agreement is required. The authority shall support the
19 determination by a written finding, which provides the specific
20 basis for the determination.

21 (3) **【As used in this subsection:**

22 "Hospitality establishment" means a hotel, motel, or any
23 business, however organized, that sells food, beverages, or both for
24 consumption by patrons on the premises.

25 "Labor harmony agreement" means an agreement between a
26 business that serves as the owner or operator of a retail
27 establishment or distribution center and one or more labor
28 organizations, which requires, for the duration of the agreement:
29 that any participating labor organization and its members agree to
30 refrain from picketing, work stoppages, boycotts, or other economic
31 interference against the business; and that the business agrees to
32 maintain a neutral posture with respect to efforts of any
33 participating labor organization to represent employees at an
34 establishment or other unit in the retail establishment or distribution
35 center, agrees to permit the labor organization to have access to the
36 employees, and agrees to guarantee to the labor organization the
37 right to obtain recognition as the exclusive collective bargaining
38 representatives of the employees in an establishment or unit at the
39 retail establishment or distribution center by demonstrating to the
40 New Jersey State Board of Mediation, Division of Private
41 Employment Dispute Settlement, or a mutually agreed-upon,
42 neutral, third-party, that a majority of workers in the unit have
43 shown their preference for the labor organization to be their
44 representative by signing authorization cards indicating that
45 preference. The labor organization or organizations shall be from a
46 list of labor organizations which have requested to be on the list and
47 which the Commissioner of Labor and Workforce Development has
48 determined represent substantial numbers of retail or distribution

center employees in the State.】 (Deleted by amendment, P.L. , c.) (pending before the Legislature as this bill)

f. (1) For a redevelopment project whose total project cost equals or exceeds \$10 million, in addition to the incentive award agreement, a developer shall enter into a community benefits agreement with the authority and the county or municipality in which the redevelopment project is located. The agreement may include, but shall not be limited to, requirements for training, employment, and youth development and free services to underserved communities in and around the community in which the redevelopment project is located. Prior to entering a community benefits agreement, the governing body of the county or municipality in which the redevelopment project is located shall hold at least one public hearing at which the governing body shall hear testimony from residents, community groups, and other stakeholders on the needs of the community that the agreement should address.

(2) The community benefits agreement shall provide for the creation of a community advisory committee to oversee the implementation of the agreement, monitor successes, ensure compliance with the terms of the agreement, and produce an annual public report. The community advisory committee created pursuant to this paragraph shall be comprised of representatives of diverse community groups and residents of the county or municipality in which the redevelopment project is located.

(3) At the time the developer submits the annual report required pursuant to section 62 of P.L.2020, c.156 (C.34:1B-330) to the authority, the developer shall certify, under the penalty of perjury, that it is in compliance with the terms of the community benefits agreement. If the developer fails to provide the certification required pursuant to this paragraph or the authority determines that the developer is not in compliance with the terms of the community benefits agreement based on the reports submitted by the community advisory committee pursuant to paragraph (2) of this subsection, then the authority may rescind an award or recapture all or part of any tax credits awarded.

(4) **【A】** Notwithstanding any requirement of this subsection to the contrary, a developer shall **【not be required to enter into】** be considered to have met the requirements of a community benefits agreement pursuant to this subsection if the developer submits to the authority:

(a) a copy of either the developer's approval letter from the authority or a redevelopment agreement applicable to the qualified business facility, provided that the approval letter or redevelopment agreement is certified by the municipality in which the redevelopment project is located, and includes provisions that meet or exceed the standards required for a community benefits agreement in this subsection, as determined by the chief executive

1 officer pursuant to rules adopted by the authority; or (b) a
2 resolution adopted by the governing body of the municipality in
3 which the redevelopment project is located, which resolution shall
4 be adopted after at least one public hearing at which the governing
5 body provides an opportunity for residents, community groups, and
6 other stakeholders to testify, and which resolution shall state that
7 the governing body has determined that the redevelopment project
8 will provide economic and social benefits to the community that
9 fulfill the purposes of this subsection, which benefits render a
10 separate community benefit agreement unnecessary, and explain the
11 reasons supporting the governing body's determination.

12 g. A developer shall submit, prior to the first disbursement of
13 tax credits under the incentive award agreement, but no later than
14 six months following project completion, satisfactory evidence of
15 actual project costs, as certified by a certified public accountant,
16 evidence of a temporary certificate of occupancy, or other event
17 evidencing project completion that begins the eligibility period
18 indicated in the incentive award agreement. The developer, or an
19 authorized agent of the developer, shall certify that the information
20 provided pursuant to this subsection is true under the penalty of
21 perjury. Claims, records, or statements submitted by a developer to
22 the authority in order to receive tax credits shall not be considered
23 claims, records, or statements made in connection with State tax
24 laws.

25 h. The incentive award agreement shall include a provision
26 allowing the authority to extend, in individual cases, the deadline
27 for any annual reporting or certification requirement.

28 i. The incentive award agreement shall include one or more
29 provisions, as determined by the authority, concerning the terms
30 and conditions for default and the remedies for the developer of a
31 redemption project in the event of default. The incentive award
32 agreement shall not allow the authority to declare a cross-default
33 when the developer of a redemption project, including any
34 business affiliate of the developer or any other entity with common
35 principals as the developer, is in default with any other assistance
36 program administered by the authority.

37 (cf: P.L.2021, c.160, s.26)

38

39 7. Section 61 of P.L.2020, c.156 (C.34:1B-329) is amended to
40 read as follows:

41 61. a. Up to the limits established in subsection b. of this
42 section and in accordance with an incentive award agreement,
43 beginning upon the receipt of occupancy permits for any portion of
44 the redevelopment project, or upon any other event evidencing
45 project completion as set forth in the incentive award agreement, a
46 developer shall be allowed a total tax credit that shall not exceed:

47 (1) 70 percent of the total project cost for a redevelopment
48 project that is located in a government-restricted municipality;

1 (2) 60 percent of the total project cost for **the new construction**
2 of **a residential project that receives a four-percent allocation from**
3 the federal Low Income Housing Tax Credit Program administered
4 by the agency **;**

5 (2) 50 percent of the total project cost for a commercial project
6 that is located in a government-restricted municipality; **or a**
7 redevelopment project that is located in a qualified incentive tract,
8 enhanced area, or a municipality with a Municipal Revitalization
9 Index score of at least 50; or

10 (3) **45** 50 percent of the total project cost for any other
11 redevelopment project.

12 b. The value of all tax credits approved by the authority under
13 the program for a redevelopment project phase shall not exceed:

14 (1) **60,000,000** 120,000,000 per redevelopment project or
15 phase for a redevelopment project that is located in a government-
16 restricted municipality;

17 (2) 90,000,000 per redevelopment project or phase for a
18 **residential** redevelopment project that is allowed a tax credit
19 under paragraph **(1)** (2) of subsection a. of this section **,** or a
20 redevelopment project or phase that is located in a qualified
21 incentive tract, government-restricted municipality, or municipality
22 with a Municipal Revitalization Index distress score of at least 50**;**
23 and

24 **(2) 42,000,000** (3) 60,000,000 for any other redevelopment
25 project or phase.

26 (cf: P.L.2021, c.160, s.27)

28 8. Section 65 of P.L.2020, c.156 (C.34:1B-333) is amended to
29 read as follows:

30 65. a. As used in this section, "transformative project" means a
31 redevelopment project; that has a project financing gap **[,] ;** that
32 has a total project cost of at least **100,000,000, and**
33 150,000,000; that includes **500,000** 200,000 or more square feet
34 of new or substantially renovated industrial, commercial, or
35 residential space **or** for a project located in a government-
36 restricted municipality, that includes 250,000 or more square feet of
37 film studios, professional stages, television studios, recording
38 studios, screening rooms, or other infrastructure for film
39 production, that includes 300,000 or more square feet of new or
40 substantially renovated industrial, commercial, or residential space
41 for a project located in an enhanced area, or that includes 500,000
42 or more square feet of new or substantially renovated industrial,
43 commercial, or residential space for any other project; and **[which]**
44 , for a commercial project, that is of special economic importance as
45 measured by the level of new jobs, new capital investment,
46 opportunities to leverage leadership in a high-priority targeted

1 industry, or other state priorities as determined by the authority
2 pursuant to rules and regulations promulgated to implement this
3 section. Notwithstanding the provisions of subsection b. of section
4 12 of P.L. , c. (C.) (pending before the Legislature as this
5 bill) to the contrary, for applications submitted on and after the
6 effective date of P.L. , c. (C.) (pending before the
7 Legislature as this bill), if the redevelopment project is located
8 entirely on land designated by the Department of Environmental
9 Protection as a brownfield development area pursuant to section 7
10 of P.L.2005, c.223 (C.58:10B-25.1), and the project cost of the
11 redevelopment project includes at least \$15,000,000 in
12 environmental remediation costs, the redevelopment project shall
13 constitute a project of special economic importance. A
14 transformative project may be completed in phases, which phases
15 may be determined by the authority based on factors such as written
16 architectural plans and specifications completed before or during
17 the physical work, certificates of occupancy, or financial and
18 operational plans. The criteria developed by the authority shall
19 include, but shall not be limited to:

20 (1) the extent to which the proposed transformative project
21 would create modern facilities that enhance the State's
22 competitiveness in attracting targeted industries;

23 (2) (a) for a residential project, the construction of **【1,000】** 700
24 or more new residential units;

25 (b) for a residential project containing less than **【1,000】** 700
26 new residential units, the construction of **【250】** 200 or more new
27 residential units if the project is located in a government-restricted
28 municipality, **【350】** 300 or more residential units if the project is
29 located in an enhanced area, or **【600】** 400 or more residential units
30 for all other mixed-use projects;

31 (c) for a residential project containing less than **【1,000】** 700
32 new residential units, the construction of **【100,000】** 50,000 square
33 feet or more of **【retail or】** commercial space, with the majority
34 being **【commercial】** non-retail space; and

35 (d) for a residential project, 20 percent of the new residential
36 units shall be constructed for occupancy by low- and moderate-
37 income households with affordability controls as **【required under**
38 **the "Fair Housing Act," P.L.1985, c.222 (C.52:27D-301 et al.)】**
39 adopted by the authority, in consultation with the agency, in
40 accordance with paragraph (2) of subsection a. of section 56 of
41 P.L.2020, c.156 (C.34:1B-324), except that a residential project
42 receiving a federal historic rehabilitation tax credit pursuant to
43 section 47 of the federal Internal Revenue Code of 1986, 26 U.S.C.
44 s.47, or a tax credit pursuant to the "Historic Property Reinvestment
45 Act," sections 2 through 8 of P.L.2020, c.156 (C.34:1B-270 through
46 C.34:1B-276), shall be exempt from the affordability controls
47 related to bedroom distribution; and

1 (3) the extent to which the proposed project would leverage the
2 competitive economic development advantages of the State's mass
3 transit assets, higher education assets, and other economic
4 development assets in attracting or retaining both employers and
5 skilled workers generally or in targeted industries.

6 A "transformative project" shall not include a redevelopment
7 project at which more than 50 percent of the premises is occupied
8 by one or more businesses engaged in final point of sale retail.

9 b. (1) The authority may award incentive awards to
10 transformative projects in accordance with the provisions of
11 sections 55 through 67 of P.L.2020, c.156 (C.34:1B-323 through
12 C.34:1B-335).

13 (2) (a) For transformative projects completed in phases, the
14 developer shall enter into a transformative phase agreement with the
15 authority.

16 (b) As used in this subsection, "transformative phase agreement"
17 shall mean a sub-agreement of the incentive award agreement that
18 governs the timing, capital investment, and other applicable details
19 of the respective phase of a phased project.

20 (3) Notwithstanding the provisions of section 57 of P.L.2020,
21 c.156 (C.34:1B-325), or any other section of P.L.2020, c.156
22 (C.34:1B-269 et al.) **[,]** to the contrary, **[for]** a transformative
23 project shall be completed, and the developer shall be issued a
24 certificate of occupancy for the transformative project facilities by
25 the applicable enforcing agency within five years of executing the
26 incentive award agreement. For transformative projects completed
27 in phases, the transformative project shall be completed, and the
28 developer shall be issued certificates of occupancy for all phases of
29 the transformative project facilities by the applicable enforcing
30 agency, within **[eight]** 10 years of executing either the incentive
31 award agreement or the first transformative phase agreement
32 corresponding to the transformative project.

33 (4) Notwithstanding the provisions of sections 55 and 60 of
34 P.L.2020, c.156 (C.34:1B-323 and C.34:1B-328), or any other
35 section of P.L.2020, c.156 (C.34:1B-269 et al.) **[,]** to the contrary,
36 each phase of a transformative project completed in phases shall
37 have a separate eligibility period. After completing each phase, the
38 developer shall submit a certification that the phase is completed.
39 If the authority approves the certification, the tax credit allowed to
40 the developer shall be increased by the tax credit amount
41 corresponding to that phase. Notwithstanding the different
42 eligibility periods for each phase, all conditions and requirements
43 applicable during an eligibility period pursuant to sections 55
44 through 67 of P.L.2020, c.156 (C.34:1B-323 through C.34:1B-335)
45 shall apply to the entire transformative project until the end of the
46 eligibility period for the last phase.

47 (5) Notwithstanding the provisions of section 60 of P.L.2020,
48 c.156 (C.34:1B-328), or any other section of P.L.2020, c.156

1 (C.34:1B-269 et al.) **【,】** to the contrary, for a transformative project
2 completed in phases, a review of the project financing gap shall be
3 performed at the certification of completion of each phase, and the
4 authority shall re-evaluate the developer's rate of return in the
5 seventh year and at the end of the eligibility period for the last
6 phase, provided that the authority may also re-evaluate the
7 developer's rate of return during the fifth year of any earlier phase.

8 (6) A transformative project receiving an incentive award
9 pursuant to this section, other than a project that includes 250,000
10 or more square feet of film studios, professional stages, television
11 studios, recording studios, screening rooms or other infrastructure
12 for film production, shall be located in an incentive area, a
13 distressed municipality, a government-restricted municipality, or an
14 enhanced area. A transformative project receiving an incentive
15 award pursuant to this section that includes 250,000 or more square
16 feet of film studios, professional stages, television studios,
17 recording studios, screening rooms or other infrastructure for film
18 production may be located anywhere in the State. **【No more than**
19 **two transformative projects receiving an incentive award pursuant**
20 **to this section shall be located in the same municipality.】** The
21 authority shall not consider an application for a transformative
22 project unless the applicant submits with its application a letter
23 evidencing support for the transformative project from the
24 governing body of the municipality in which the transformative
25 project is located.

26 c. The authority shall review the transformative project cost,
27 evaluate and validate the project financing gap estimated by the
28 developer, and conduct a State fiscal impact analysis to ensure that
29 the overall public assistance provided to the transformative project
30 will result in a net positive benefit to the State. In determining
31 whether a transformative project will result in a net positive benefit
32 to the State, the authority shall not consider the value of any taxes
33 exempted, abated, rebated, or retained under the "Five-Year
34 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
35 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
36 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
37 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
38 effect of lowering or eliminating the developer's State or local tax
39 liability. The determination made pursuant to this subsection shall
40 be based on the potential tax liability of the developer without
41 regard for potential tax losses if the developer were to locate in
42 another state. The authority shall assess the cost of these reviews to
43 the applicant. A developer shall pay to the authority the full
44 amount of the direct costs of an analysis concerning the developer's
45 application for an incentive award that a third party retained by the
46 authority performs, if the authority deems such retention to be
47 necessary. The authority shall evaluate the net economic benefits
48 on a present value basis under which the requested tax credit

1 allocation amount is discounted to present value at the same
2 discount rate as the projected benefits from the implementation of
3 the proposed transformative project for which an award of tax
4 credits is being sought. Projects that are predominantly residential
5 shall be excluded from the calculation of the net benefit test
6 required pursuant to this subsection.

7 d. In determining net benefits for any business or person
8 considering locating in a transformative project and applying to
9 receive from the authority any other economic development
10 incentive subsequent to the award of transformative project tax
11 credits pursuant to section 65 of P.L.2020, c.156 (C.34:1B-333), the
12 authority shall not credit the business or person with any benefit
13 that was previously credited to the transformative project pursuant
14 to section 65 of P.L.2020, c.156 (C.34:1B-333).

15 e. The authority shall administer the credits awarded pursuant
16 to this section in accordance with the provisions of sections 62 and
17 63 of P.L.2020, c.156 (C.34:1B-330 and C.34:1B-331).

18 f. Prior to allocating an incentive award to a developer, the
19 authority shall confirm with the Department of Labor and
20 Workforce Development, the Department of Environmental
21 Protection, and the Department of the Treasury that the developer is
22 in substantial good standing with the respective department, or the
23 developer has entered into an agreement with the respective
24 department that includes a practical corrective action plan, and the
25 developer shall certify that each contractor or subcontractor
26 performing work at the transformative project: (1) is registered as
27 required by "The Public Works Contractor Registration Act,"
28 P.L.1999, c.238 (C.34:11-56.48 et seq.); (2) has not been debarred
29 by the Department of Labor and Workforce Development from
30 engaging in or bidding on Public Works Contracts in the State; and
31 (3) possesses a tax clearance certificate issued by the Division of
32 Taxation in the Department of the Treasury. The authority may also
33 contract with an independent third party to perform a background
34 check on the developer.

35 g. Notwithstanding the limitation on incentive awards set forth
36 in subsection b. of section 61 and section 98 of P.L.2020, c.156
37 (C.34:1B-329 and C.34:1B-362) to the contrary, the authority may
38 allow a developer of a transformative project a tax credit **■**, as
39 reimbursement for certain project financing gap costs, **■** in an
40 amount not to exceed **■40■** the lesser of:

41 (1) (a) 70 percent of the total project cost for a transformative
42 project that is located in a government-restricted municipality;

43 (b) 60 percent of the total project cost for a residential
44 transformative project that receives a four-percent allocation from
45 the federal Low Income Housing Tax Credit Program administered
46 by the agency or a transformative project that is located in a
47 qualified incentive tract, enhanced area, or a municipality with a
48 Municipal Revitalization Index score of at least 50; or

1 (c) 50 percent of the total project cost **[,]** for any other
2 transformative project;

3 (2) the total value of the project financing gap **[,]**; or

4 **[\$350,000,000** whichever is less; provided, however, **]** (3)
5 \$400,000,000, except that for a transformative project that is
6 developed in phases, the **[\$350,000,000]** \$400,000,000 limitation
7 on incentive awards set forth in this **[subsection]** paragraph shall
8 apply to the total aggregate award for all phases of the
9 transformative project.

10 (cf: P.L.2021, c.160, s.29)

11
12 9. Section 67 of P.L.2020, c.156 (C.34:1B-335) is amended to
13 read as follows:

14 67. a. Notwithstanding the provisions of the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) **[,]** to the
16 contrary, except as otherwise provided in subsection b. of this
17 section, the chief executive officer of the authority may adopt,
18 immediately, upon filing with the Office of Administrative Law,
19 regulations that the chief executive officer deems necessary to
20 implement the provisions of sections 54 through 67 of P.L.2020,
21 c.156 (C.34:1B-322 through C.34:1B-335), which regulations shall
22 be effective for a period not to exceed 180 days from the date of the
23 filing. The chief executive officer shall thereafter amend, adopt, or
24 readopt the regulations in accordance with the requirements of
25 P.L.1968, c.410 (C.52:14B-1 et seq.).

26 b. Notwithstanding the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
28 contrary, the chief executive officer of the authority shall, in
29 consultation with the agency, adopt, immediately, upon filing with
30 the Office of Administrative Law, such rules and regulations as the
31 chief executive officer deems necessary to implement the provisions
32 of sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322 through
33 C.34:1B-335), as amended and supplemented by P.L. ,
34 c. (C.) (pending before the Legislature as this bill), which
35 rules and regulations shall be effective for a period not to exceed
36 365 days after the date of the filing. Before the expiration of the
37 rules and regulations, the chief executive officer shall amend, adopt,
38 or readopt the rules and regulations in accordance with the
39 requirements of the "Administrative Procedure Act," P.L.1968,
40 c.410 (C.52:14B-1 et seq.).

41 (cf: P.L.2020, c.156, s.67)

42
43 10. Section 71 of P.L.2020, c.156 (C.34:1B-339) is amended to
44 read as follows:

45 71. a. Beginning on the effective date of P.L.2020, c.156
46 (C.34:1B-269 et al.), but prior to March 1, **[2027]** 2029, to be
47 eligible for tax credits under the program, a business's chief

1 executive officer, or equivalent officer, shall demonstrate to the
2 authority at the time of application that:

3 (1) the business will make, acquire, or lease a capital investment
4 at the qualified business facility equal to or greater than the
5 applicable amount set forth in subsection b. of this section;

6 (2) the business will create or retain new and retained full-time
7 jobs in the State in an amount equal to or greater than the applicable
8 number set forth in subsection c. of this section;

9 (3) the qualified business facility is located in a qualified
10 incentive area;

11 (4) the award of tax credits will be a material factor in the
12 business's decision to create or retain the number of new and
13 retained full-time jobs set forth in its application;

14 (5) the award of tax credits, the capital investment resultant
15 from the award of tax credits, and the resultant creation and
16 retention of new and retained full-time jobs will yield a net positive
17 benefit to the State equaling at least 400 percent of the requested
18 tax credit allocation amount, or for a phased project the requested
19 tax credit allocation amount for the initial phase, and on a
20 cumulative basis each phase thereafter, which determination shall
21 be calculated prior to considering the value of the requested tax
22 credit under the program and shall be based on the benefits
23 generated during the period of time from approval through the end
24 of the commitment period, or through the end of the longer period
25 of extended commitment that the business may elect for purposes of
26 receiving credit for benefits projected to occur after the expiration
27 of the commitment period, except that:

28 (a) an award of tax credits to a business for a qualified business
29 facility located in a distressed municipality or an enhanced area
30 shall yield a net positive benefit to the State, based on the benefits
31 generated during the period of time from approval through the end
32 of the commitment period, that equals at least 300 percent of the
33 requested tax credit amount;

34 (b) an award of tax credits to a business for a qualified business
35 facility located in a government-restricted municipality, or for a
36 mega project, shall yield a net positive benefit to the State, based on
37 the benefits generated during the period of time from approval
38 through the end of the commitment period, that equals at least 200
39 percent of the requested tax credit amount;

40 (c) the net economic benefits shall be evaluated on a present
41 value basis with the requested tax credit allocation amount
42 discounted to present value at the same discount rate as the benefits
43 from capital investment resultant from the award of tax credits and
44 the resultant retention and creation of full-time jobs as provided in
45 subparagraph (d) of this paragraph; and

46 (d) a business may elect a period of extended commitment
47 beyond the commitment period for which time the economic
48 benefits shall be creditable to the determination of the net economic

1 benefit of the project, and a business electing a period of extended
2 commitment and failing to maintain the project through the
3 expiration of that extended commitment period shall be obligated to
4 repay a proportion of the incremental benefits received on account
5 of having extended the commitment period, taking into
6 consideration the number of years of extended commitment during
7 which the business maintained the project;

8 (e) in making the determination required pursuant to this
9 paragraph, the authority shall not consider the value of any taxes
10 exempted, abated, rebated, or retained under the "Five-Year
11 Exemption and Abatement Law," P.L.1991, c.441 (C.40A:21-1 et
12 seq.), the "Long Term Tax Exemption Law," P.L.1991, c.431
13 (C.40A:20-1 et al.), the "New Jersey Urban Enterprise Zones Act,"
14 P.L.1983, c.303 (C.52:27H-60 et seq.), or any other law that has the
15 effect of lowering or eliminating the business's State or local tax
16 liability, and the business's chief executive officer or equivalent
17 officer shall certify, under the penalty of perjury, that all documents
18 submitted, and factual assertions made, to the authority to
19 demonstrate that the award of tax credits will yield a net positive
20 benefit to the State in accordance with this paragraph are true and
21 accurate at the time of submission;

22 (f) If, during the term of the program, the methodology used by
23 the authority in projecting benefits of a project in making the
24 determination required pursuant to this paragraph is modified, the
25 respective percentages by which the benefits must exceed the
26 requested tax credit allocation amount set forth pursuant to this
27 paragraph (5) may be adjusted to ensure consistent application of
28 the respective thresholds in this paragraph (5) applied to each
29 application;

30 (6) the qualified business facility shall be in compliance with
31 minimum environmental and sustainability standards;

32 (7) the project shall comply with the authority's affirmative
33 action requirements, adopted pursuant to section 4 of P.L.1979,
34 c.303 (C.34:1B-5.4); and

35 (8) (a) each worker employed to perform construction work or
36 building services work at the qualified business facility shall be
37 paid not less than the prevailing wage rate for the worker's craft or
38 trade, as determined by the Commissioner of Labor and Workforce
39 Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.)
40 and P.L.2005, c.379 (C.34:11-56.58 et seq.), unless:

41 (i) the work performed under the contract is performed at a
42 qualified business facility owned by a landlord that is not a business
43 receiving authority assistance;

44 (ii) the landlord is a party to the construction contract, building
45 services contract, or both; and

46 (iii) the qualified business facility constitutes a lease of less than
47 35 percent of the entire facility at the time of contract and under any
48 agreement to subsequently lease the qualified business facility.

1 (b) In accordance with section 1 of P.L.1979, c.303 (C.34:1B-
2 5.1), nothing in this paragraph shall be construed as requiring the
3 payment of prevailing wage for construction commencing more
4 than two years after the authority has issued the first certificate of
5 compliance pursuant to paragraph (2) of subsection a. of section 77
6 of P.L.2020, c.156 (C.34:1B-345).

7 b. (1) The minimum capital investment required to be eligible
8 under the program shall be as follows:

9 (a) for the rehabilitation, improvement, fit-out, or retrofit of an
10 existing industrial, warehousing, logistics, or research and
11 development portion of the premises for continued similar use by
12 the business, a minimum investment of \$20 per square foot of gross
13 leasable area;

14 (b) for the new construction of an industrial, warehousing,
15 logistics, or research and development portion of the premises for
16 use by the business, a minimum investment of \$60 per square foot
17 of gross leasable area;

18 (c) for the rehabilitation, improvement, fit-out, or retrofit of
19 existing portion of the premises that does not qualify pursuant to
20 subparagraph (a) or (b) of this paragraph, a minimum investment of
21 \$40 per square foot of gross leasable area;

22 (d) for the new construction of a portion of the premises that
23 does not qualify pursuant to subparagraph (a) or (b) of this
24 paragraph, a minimum investment of \$120 per square foot of gross
25 leasable area; and

26 (e) for a small business, no new minimum capital investment
27 shall be required, provided the applicant has demonstrated evidence
28 satisfactory to the authority of its intent to remain in the State for
29 the commitment period.

30 (2) In the event the business invests less than that amount set
31 forth in paragraph (1) of this subsection in the qualified business
32 facility, the business shall donate the uninvested balance to the
33 infrastructure fund established pursuant to section 79 of P.L.2020,
34 c.156 (C.52:27D-520).

35 (3) Notwithstanding the provisions of paragraphs (1) and (2) of
36 this subsection, the authority may adopt, pursuant to the provisions
37 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
38 1 et seq.), rules and regulations adjusting the minimum capital
39 investment amounts required under the program when necessary to
40 respond to the prevailing economic conditions in the State.

41 c. (1) The minimum number of new or retained full-time jobs
42 required to be eligible under the program shall be as follows:

43 (a) for a small business, 25 percent growth of its workforce with
44 new full-time jobs within the eligibility period in accordance with
45 subsection e. of section 76 of P.L.2020, c.156 (C.34:1B-344);

46 (b) for a business engaged primarily in a targeted industry which
47 does not qualify as a small business, 25 new full-time jobs;

48 (c) for any other business, a minimum of 35 new full-time jobs;

1 (d) for a business eligible for new full-time jobs under
2 subparagraphs (b) or (c) of this paragraph, the business shall also be
3 eligible for retained full-time jobs in addition to the new full-time
4 jobs if the business will retain 150 retained full-time jobs when
5 locating in a government-restricted municipality, 250 retained full-
6 time jobs when locating in a qualified incentive tract or enhanced
7 area municipality, or 500 retained full-time jobs when locating
8 anywhere else in the State;

9 (e) for a business not eligible under subparagraphs (b), (c), or (d)
10 of this paragraph and locating in a qualified incentive tract,
11 enhanced area, or government-restricted municipality that will
12 retain 500 or more retained full-time jobs, a minimum of the
13 business's retained full-time jobs at the time of application;

14 (f) for a business not eligible under subparagraphs (b), (c), (d), or
15 (e) of this paragraph and located in the State that will retain 1,000
16 or more retained full-time jobs, a minimum of the business's
17 retained full-time jobs at the time of application.

18 (2) Notwithstanding the provisions of paragraph (1) of this
19 subsection, the authority may adopt, pursuant to the provisions of
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
21 seq.), rules and regulations adjusting the minimum number of new
22 or retained full-time jobs required under the program when
23 necessary to respond to the prevailing economic conditions in the
24 State.

25 d. A business that provides and adheres to a plan that
26 demonstrates that the qualified business facility is capable of
27 accommodating more than half of the business's new and retained
28 full-time employees as approved and that certifies, under the
29 penalty of perjury, that not less than 80 percent of the withholdings
30 of new and retained full-time jobs are subject to the "New Jersey
31 Gross Income Tax Act," N.J.S.54A:1-1 et seq. shall be eligible.
32 The requirements set forth in this subsection may be modified by
33 the authority to respond to an emergency, disaster, or other factors
34 that result in employees of an eligible business having to work from
35 a location other than the qualified business facility.

36 e. The chief executive officer of the business, or an equivalent
37 officer, shall certify that all factual representations made by the
38 business to the authority pursuant to subsection a. of this section are
39 true under the penalty of perjury.

40 f. A business eligible pursuant to this section may submit an
41 application to the authority in accordance with the provisions of
42 section 72 of P.L.2020, c.156 (C.34:1B-340) on or after the
43 effective date of P.L.2020, c.156 (C.34:1B-269 et al.) but prior to
44 March 1, **2027** 2029.

45 (cf: P.L.2021, c.160, s.31)

1 11. Section 98 of P.L.2020, c.156 (C.34:1B-362) is amended to
2 read as follows:

3 98. a. The combined value of all tax credits awarded under the
4 "Historic Property Reinvestment Act," sections **【1】 2** through 8 of
5 P.L.2020, c.156 **【(C.34:1B-269) (C.34:1B-270** through C.34:1B-
6 276); the **【"Brownfield】** **“Brownfields** Redevelopment Incentive
7 Program Act," sections 9 through 19 of P.L.2020, c.156 (C.34:1B-
8 277 through C.34:1B-287); the "New Jersey Innovation Evergreen
9 Act," sections 20 through 34 of P.L.2020, c.156 (C.34:1B-288
10 through C.34:1B-302); the "Food Desert Relief Act," sections 35
11 through 42 of P.L.2020, c.156 (C.34:1B-303 through C.34:1B-310);
12 the "New Jersey Community-Anchored Development Act," sections
13 43 through 53 of P.L.2020, c.156 (C.34:1B-311 through C.34:1B-
14 321); the "New Jersey Aspire Program Act," sections 54 through 67
15 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335); the
16 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
17 (C.34:1B-336 et al.); and section 6 of P.L.2010, c.57 (C.34:1B-
18 209.4) shall not exceed an overall cap of \$11.5 billion over a
19 **【seven-year】** nine-year period, subject to the conditions and
20 limitations set forth in this section. Of this \$11.5 billion, \$2.5
21 billion shall be reserved for transformative projects approved under
22 the Aspire Program.

23 b. (1) The total value of tax credits awarded under any
24 constituent program of the "New Jersey Economic Recovery Act of
25 2020," P.L.2020, c.156 (C.34:1B-269 et al.) shall be subject to the
26 following annual limitations, except as otherwise provided in
27 subsection c. of this section:

28 (a) for tax credits awarded under the "Historic Property
29 Reinvestment Act," sections **【1】 2** through 8 of P.L.2020, c.156
30 **【(C.34:1B-269) (C.34:1B-270** through C.34:1B-276), the total
31 value of tax credits annually awarded during each of the first six
32 years of the **【seven-year】** nine-year period shall not exceed \$50
33 million;

34 (b) for tax credits awarded under the **【"Brownfield】**
35 **“Brownfields** Redevelopment Incentive Program Act," sections 9
36 through 19 of P.L.2020, c.156 (C.34:1B-277 through C.34:1B-287),
37 the total value of tax credits annually awarded during each of the
38 first six years of the **【seven-year】** nine-year period shall not exceed
39 \$50 million;

40 (c) for tax credits awarded under the "New Jersey Innovation
41 Evergreen Act," sections 20 through 34 of P.L.2020, c.156
42 (C.34:1B-288 through C.34:1B-302), the total value of tax credits
43 annually awarded during each of the first six years of the **【seven-
44 year】** nine-year period shall not exceed \$60 million and the total
45 value of tax credits awarded over the entirety of the **【seven-year
46 program】** nine-year period shall not exceed \$300,000,000;

1 (d) for tax credits awarded under the "Food Desert Relief Act,"
2 sections 35 through 42 of P.L.2020, c.156 (C.34:1B-303 through
3 C.34:1B-310), the total value of tax credits annually awarded during
4 each of the first six years of the **【seven-year】** nine-year period shall
5 not exceed \$40 million;

6 (e) for tax credits awarded under the "New Jersey Community-
7 Anchored Development Act," sections 43 through 53 of P.L.2020,
8 c.156 (C.34:1B-311 through C.34:1B-321), the total value of tax
9 credits annually awarded during each of the first six years of the
10 **【seven-year】** nine-year period shall not exceed \$200 million, except
11 that during each of the first six years of the **【seven-year】** nine-year
12 period, the authority shall annually award tax credits valuing no
13 greater than \$130 million for projects located in the 13 northern
14 counties of the State, and the authority shall annually award tax
15 credits valuing no greater than \$70 million for projects located in
16 the eight southern counties of the State. If during any of the first
17 six years of the **【seven-year】** nine-year period, the authority awards
18 tax credits in an amount less than the annual limitation for projects
19 located in northern counties or southern counties, as applicable, the
20 uncommitted portion of the annual limitation shall be available to
21 be deployed by the authority in a subsequent year, provided that the
22 uncommitted portion of tax credits shall be awarded for projects
23 located in the applicable geographic area, except that (i) after the
24 completion of the third year of the **【seven-year】** nine-year period,
25 the authority may deploy 50 percent of the uncommitted portion of
26 tax credits from any previous year without consideration to the
27 county in which a project is located; and (ii) after the completion of
28 the sixth year of the **【seven-year】** nine-year period, the authority
29 may deploy all available tax credits, including the uncommitted
30 portion of the annual limitation for any previous year, without
31 consideration to the county in which a project is located;

32 (f) for tax credits awarded under the "New Jersey Aspire
33 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
34 322 through C.34:1B-335), and the "Emerge Program Act," sections
35 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
36 including tax credits awarded for transformative projects, the total
37 value of tax credits annually awarded during each of the first six
38 years of the **【seven-year】** nine-year period shall not exceed \$1.1
39 billion. If the authority awards tax credits in an amount less than
40 the annual limitation, then the uncommitted portion of the annual
41 limitation shall be made available for qualified offshore wind
42 projects awarded under section 6 of P.L.2010, c.57 (C.34:1B-
43 209.4), pursuant to subparagraph (h) of this paragraph, or New
44 Jersey studio partners and New Jersey film-lease partners awarded
45 under sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
46 C.54A:4-12b), pursuant to subparagraph (i) of this paragraph.
47 During each of the first six years of the **【seven-year】** nine-year

1 period, the authority shall annually award tax credits valuing no
2 greater than \$715 million for projects located in the northern
3 counties of the State, and the authority shall annually award tax
4 credits valuing no greater than \$385 million for projects located in
5 the southern counties of the State under the "New Jersey Aspire
6 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
7 322 through C.34:1B-335), and the "Emerge Program Act," sections
8 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.). If during
9 any of the first six years of the **【seven-year】** nine-year period, the
10 authority awards tax credits under the "New Jersey Aspire Program
11 Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-322
12 through C.34:1B-335), and the "Emerge Program Act," sections 68
13 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), in an amount
14 less than the annual limitation for projects located in northern
15 counties or southern counties, as applicable, the uncommitted
16 portion of the annual limitation shall be available to be deployed by
17 the authority in a subsequent year, provided that the uncommitted
18 portion of tax credits shall be awarded for projects located in the
19 applicable geographic area, except that (i) after the completion of
20 the third year of the **【seven-year】** nine-year period, the authority
21 may deploy 50 percent of the uncommitted portion of tax credits for
22 any previous year without consideration to the county in which a
23 project is located; and (ii) after the completion of the sixth year of
24 the **【seven-year】** nine-year period, the authority may deploy all
25 available tax credits, including the uncommitted portion of the
26 annual limitation for any previous year, without consideration to the
27 county in which a project is located;

28 (g) except as provided in subparagraph (j) of this paragraph, for
29 tax credits awarded for transformative projects under the "New
30 Jersey Aspire Program Act," sections 54 through 67 of P.L.2020,
31 c.156 (C.34:1B-322 through C.34:1B-335), the total value of tax
32 credits awarded during the **【seven-year】** nine-year period shall not
33 exceed \$2.5 billion. The total value of tax credits awarded for
34 transformative projects in a given year shall not be subject to an
35 annual limitation, except that the total value of tax credits awarded
36 to any transformative project shall not exceed **【\$350】** \$400 million;

37 (h) from the tax credits made available, pursuant to
38 subparagraph (f) of this paragraph, to the "New Jersey Aspire
39 Program Act," sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
40 322 through C.34:1B-335), and the "Emerge Program Act," sections
41 68 through 81 of P.L.2020, c.156 (C.34:1B-336 et al.), not
42 including tax credits awarded for transformative projects, an
43 amount not to exceed \$350,000,000 shall be made available for
44 qualified offshore wind projects awarded a credit pursuant to
45 section 6 of P.L.2010, c.57 (C.34:1B-209.4) during the first three
46 years of the **【seven-year】** nine-year period; **【and】**

1 (i) beginning in fiscal year 2025, from the tax credits made
2 available, pursuant to subparagraph (f) of this paragraph, to the
3 "New Jersey Aspire Program Act," sections 54 through 67 of
4 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), and the
5 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
6 (C.34:1B-336 et al.), not including tax credits awarded for
7 transformative projects, additional amounts shall be made available
8 for New Jersey studio partners and New Jersey film-lease partners
9 pursuant to sections 1 and 2 of P.L.2018, c.56 (C.54:10A-5.39b and
10 C.54A:4-12b); and

11 (j) beginning in fiscal year 2024, from the tax credits made
12 available, pursuant to subparagraph (f) of this paragraph, to the
13 "New Jersey Aspire Program Act," sections 54 through 67 of
14 P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335) and the
15 "Emerge Program Act," sections 68 through 81 of P.L.2020, c.156
16 (C.34:1B-336 et al.), not including tax credits awarded for
17 transformative projects, an amount not to exceed \$500,000,000 may
18 be annually transferred for the award to transformative projects
19 under the "New Jersey Aspire Program Act," sections 54 through 67
20 of P.L.2020, c.156 (C.34:1B-322 through C.34:1B-335), provided
21 that: (i) the remaining allocation of tax credits otherwise available
22 for transformative projects, pursuant to subparagraph (g) of this
23 paragraph, is less than \$1,000,000,000; and (ii) the authority board
24 determines that the transfer of tax credits is warranted based on
25 such criteria as the authority deems appropriate, which may include
26 the criteria set forth in paragraph (2) of this subsection. If a transfer
27 of tax credits is made pursuant to this subparagraph, the authority
28 shall award no greater than 65 percent of the tax credits transferred
29 pursuant to this subparagraph to transformative projects located in
30 the northern counties of the State and no greater than 35 percent of
31 the tax credits transferred pursuant to this subparagraph to
32 transformative projects located in the southern counties of the State.

33 (2) The authority may in any given year determine that it is in
34 the State's interest to approve an amount of tax credits in excess of
35 the annual limitations set forth in paragraph (1) of this subsection,
36 but in no event more than \$200,000,000 in excess of the annual
37 limitation, upon a determination by the authority board that such
38 increase is warranted based on specific criteria that may include:

39 (i) the increased demand for opportunities to create or retain
40 employment and investment in the State as indicated by the volume
41 of project applications and the amount of tax credits being sought
42 by those applications;

43 (ii) the need to protect the State's economic position in the event
44 of an economic downturn;

45 (iii) the quality of project applications and the net economic
46 benefit to the State and municipalities associated with those
47 applications;

1 (iv) opportunities for project applications to strengthen or protect
2 the competitiveness of the state under the prevailing market
3 conditions;

4 (v) enhanced access to employment and investment for
5 underserved populations in distressed municipalities and qualified
6 incentives tracts;

7 (vi) increased investment and employment in high-growth
8 technology sectors and in projects that entail collaboration with
9 education institutions in the State;

10 (vii) increased development proximate to mass transit facilities;

11 (viii) any other factor deemed relevant by the authority.

12 c. In the event that the authority in any year approves projects
13 for tax credits in an amount less than the annual limitations set forth
14 in paragraph (1) of subsection b. of this section, then the
15 uncommitted portion of the annual limitation shall be available to
16 be deployed by the authority in future years for projects under the
17 same program; provided however, that in no event shall the
18 aggregate amount of tax credits approved be in excess of the overall
19 cap of \$11.5 billion, and in no event shall the uncommitted portion
20 of the annual limitation for any previous year be deployed after the
21 conclusion of the **【seven-year】** nine-year period.

22 (cf: P.L.2021, c.160, s.47)

23
24 12. (New section) a. (1) Except as otherwise provided in
25 subsection b. of this section, all program applications completed
26 after the effective date of P.L. , c. (C.) (pending before the
27 Legislature as this bill) shall be subject to the “New Jersey Aspire
28 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
29 322 through C.34:1B-335), as amended as supplemented by P.L. ,
30 c. (C.) (pending before the Legislature as this bill),
31 including the rules and regulations adopted pursuant to subsection
32 b. of section 67 of P.L.2020, c.156 (C.34:1B-335).

33 (2) Except as otherwise provided in subsection b. of this section,
34 all program applications completed on or before the effective date
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill) shall be subject to the provisions of the “New Jersey Aspire
37 Program Act,” sections 54 through 67 of P.L.2020, c.156 (C.34:1B-
38 322 through C.34:1B-335), as such provisions remained in effect
39 immediately before the effective date of P.L. , c. (C.)
40 (pending before the Legislature as this bill), including the rules and
41 regulations adopted pursuant to subsection a. of section 67 of
42 P.L.2020, c.156 (C.34:1B-335).

43 b. Notwithstanding any provision of P.L.2020, c.156 (C.34:1B-
44 269 et al.) to the contrary, if a completed application for a
45 residential project is submitted to the authority on or before the
46 121st calendar day next following effective date of P.L. ,
47 c. (C.) (pending before the Legislature as this bill), the
48 applicant for the residential project has received all applicable

1 approvals pursuant to the “Municipal Land Use Law,” P.L.1975,
2 c.291 (C.40:55D-1 et seq.) on or before the 121st calendar day next
3 following the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill), and the applicant submits written
5 notice to the authority, before the authority’s approval or denial of
6 the application, electing for the application to be governed under
7 the provisions of this subsection, then the residential units
8 constructed for occupancy by low- and moderate-income
9 households within the residential project shall not be subject to the
10 affordability controls adopted by the authority, in consultation with
11 the agency, pursuant to paragraph (2) of subsection a. of section 56
12 of P.L.2020, c.156 (C.34:1B-324) and subsection b. of section 67 of
13 P.L.2020, c.156 (C.34:1B-335). In this event, the application for
14 the residential project shall be reviewed, approved, and
15 administered in accordance with the provisions of the “New Jersey
16 Aspire Program Act,” sections 54 through 67 of P.L.2020, c.156
17 (C.34:1B-322 through C.34:1B-335), as such provisions remained
18 in effect immediately before the effective date of P.L. ,
19 c. (C.) (pending before the Legislature as this bill), including
20 the rules and regulations adopted pursuant to subsection a. of
21 section 67 of P.L.2020, c.156 (C.34:1B-335), except that the
22 application shall be subject to:

23 (1) the determination of a reasonable and appropriate return on
24 investment, as defined in section 55 of P.L.2020, c.156 (C.34:1B-
25 323), as amended by P.L. , c. (pending before the Legislature as
26 this bill); and

27 (2) the limitation on tax credit awards set forth in subsection b.
28 of section 61 of P.L.2020, c.156 (C.34:1B-329) and subsection g. of
29 section 65 of P.L.2020, c.156 (C.34:1B-333), respectively, as
30 amended by P.L. , c. (pending before the Legislature as this
31 bill).

32
33 13. (New section) If an applicant has submitted a completed
34 program application that is pending approval by the authority on the
35 effective date of P.L. , c. (C.) (pending before the
36 Legislature as this bill), the applicant may withdraw the application
37 at any time before the authority approves or denies the application.
38 If the applicant withdraws the application, the authority shall return
39 all application fees paid by the applicant, and the withdrawal shall
40 not serve to prejudice the consideration of any program application
41 submitted by the applicant thereafter.

42
43 14. This act shall take effect immediately.

44 45 STATEMENT

46
47 This bill provides various changes to the New Jersey Aspire
48 Program (Aspire Program), which is administered by the New

1 Jersey Economic Development Authority (EDA) and was enacted as
2 part of the “New Jersey Economic Recovery Act of 2020.”

3 Under the Aspire Program, the EDA awards tax credits to the
4 developers of certain redevelopment projects, which projects would
5 not be economically feasible absent such subsidies, and which
6 projects meet certain other requirements. In turn, these developers
7 are required to comply with certain additional requirements
8 concerning the development of these projects, including, but not
9 limited to, the dedication of affordable housing in new residential
10 projects. Under current law, the total tax credits awarded for any
11 redevelopment project may not exceed certain statutory limitations,
12 except that the EDA may provide larger tax credit awards for
13 “transformative projects,” which meet certain eligibility criteria,
14 and which are also subject to statutory limitations on tax credit
15 awards.

16 The bill also revises other provisions of the “New Jersey
17 Economic Recovery Act of 2020,” including extending the period in
18 which other economic development programs, including the Emerge
19 Program, would remain in operation and authorizing the transfer of
20 certain tax credits otherwise available for the Aspire Program and
21 Emerge Program.

22

23 *Limitations on Tax Credit Awards*

24 The bill revises the maximum amounts of tax credits that may be
25 awarded to redevelopment projects and transformative projects
26 under the Aspire Program.

27 Under current law, the developer of a redevelopment project may
28 receive tax credits under the Aspire Program up to the following
29 amounts, subject to certain other limitations: (1) 60 percent of the
30 total project costs for any residential project that also receives
31 federal four-percent low income housing tax credits (LIHTCs), up
32 to \$60 million; (2) 50 percent of total project costs for any
33 commercial project located in a government-restricted municipality,
34 up to \$60 million; and (3) 45 percent of total project costs for any
35 other project, up to \$60 million if the project is located in a
36 qualified incentive tract, government-restricted municipality, or
37 municipality with a Municipal Revitalization Index distress score of
38 at least 50, or up to \$42 million if located elsewhere.

39 Instead, the bill provides that a redevelopment project may
40 receive tax credits up to the following amounts, subject to certain
41 other limitations: (1) 70 percent of total project costs for any project
42 located in a government-restricted municipality, up to \$120 million;
43 (2) 60 percent of total project costs for any residential project that
44 also receives LIHTCs or any redevelopment project located in a
45 qualified incentive tract, enhanced area, or a municipality with a
46 Municipal Revitalization Index score of at least 50, up to \$90
47 million; and (3) 50 percent of total project costs for any other
48 project, up to \$60 million.

1 Similarly, the bill provides that transformative projects may
2 receive tax credits equal to the lesser of \$400 million, the total
3 value of the project financing gap, or the following amounts: (1) 70
4 percent of total project costs for any transformative project located
5 in a government-restricted municipality; (2) 60 percent of the total
6 project costs for any residential transformative project that also
7 receives LIHTCs or any transformative project located in a
8 qualified incentive tract, enhanced area, or a municipality with a
9 Municipal Revitalization Index score of at least 50; or (3) 50
10 percent of total project costs for any other transformative project.
11 Under current law, all transformative projects are entitled to receive
12 tax credits up to 40 percent of the total project costs, the total value
13 of the project financing gap, or \$350 million, whichever is less.
14

15 *Eligibility Requirements for Commercial Projects*

16 The bill revises certain eligibility requirements for commercial
17 projects under the Aspire Program. Currently, a commercial project
18 is required to contain at least 100,000 square feet of commercial or
19 industrial space to qualify for the program. The bill reduces these
20 square footage requirements to at least 25,000 square feet for any
21 commercial project located in a government-restricted municipality
22 or 50,000 square feet for any other commercial project, except in
23 the case of health care or health services centers.

24 The bill also revises the eligibility criteria applicable to
25 commercial projects that include a health care or health services
26 center. Notably, the bill amends the existing definition of “health
27 care or health services center” to require these establishments to:
28 (1) contain not less than 10,000 square feet devoted to health care
29 or health services, where patients may be admitted for or seek
30 medical examination and treatment; and (2) be located within a
31 municipality that lacks adequate access to health care services, as
32 annually determined by the Commissioner of Health.
33 Notwithstanding the default square footage requirements for
34 commercial projects, the bill also provides that any redevelopment
35 project that is comprised solely of a health care or health services
36 center, and which contains not less than 10,000 square feet devoted
37 to health care or health services, would also qualify as a commercial
38 project under the Aspire Program. The bill also provides that if a
39 commercial project is comprised solely of a health care or health
40 services center, the health care or health services center is required
41 to comply with certain requirements concerning total project cost in
42 order for the project to qualify for a tax credit.

1 *Requirements for Residential Projects*

2 The bill revises certain requirements of the Aspire Program
3 concerning the approval of residential projects, including the
4 affordability controls that would be required within these projects.

5 Under current law, the developer of a new residential project is
6 required under the Aspire Program to reserve certain residential
7 units for low- and moderate-income housing. Current law requires
8 these residential units to be subject to affordability controls, as
9 required under the State's "Fair Housing Act," which affordability
10 controls have been adopted by the New Jersey Housing and
11 Mortgage Finance Agency (HMFA) and are known as the "Uniform
12 Housing Affordability Controls" (UHAC rules). However, these
13 rules do not apply to residential projects that receive federal
14 LIHTCs. As a result, residential projects that receive funding
15 through both the Aspire Program and the federal LIHTC Program
16 are generally not required to comply with the UHAC rules.

17 The bill revises the affordability controls that would apply to
18 residential projects under the Aspire Program. Specifically, the bill
19 requires the EDA, in consultation with the HMFA, to adopt rules
20 and regulations concerning the establishment and administration of
21 affordability controls for residential projects under the program,
22 including, but not limited to, residential projects that utilize federal
23 LIHTCs. At a minimum, these affordability controls would be
24 required to comply with the requirements of the UHAC rules, as in
25 effect upon the date of enactment of this bill, including any
26 requirements concerning the bedroom distributions, affordability
27 averages, affirmative marketing, and the long-term deed restriction
28 of residential units. However, the bill provides an exemption for
29 these bedroom distribution requirements for any residential project
30 that receives the federal historic rehabilitation tax credit or a State
31 tax credit under the "Historic Property Reinvestment Act."

32 The bill also provides that when all residential units constructed
33 in a residential project are reserved for occupancy by low- and
34 moderate-income households, the calculation of total project costs
35 for the project would also include the developer fees paid before
36 acquiring permanent financing, as well as the deferred developer
37 fees pursuant to the rules established by the agency.

38

39 *Transformative Projects*

40 The bill revises several requirements of the Aspire Program
41 concerning the eligibility and approval of transformative projects.

42 Under current law, a redevelopment project is required to meet
43 the following criteria in order to qualify as a transformative project:
44 (1) have a project financing gap; (2) incur total project costs of at
45 least \$100 million; (3) contain 500,000 or more square feet of new
46 or substantially renovated industrial, commercial, or residential
47 space, except for projects which may include 250,000 or more
48 square feet of film studios, professional stages, television studios,

1 recording studios, screening rooms, or other infrastructure for film
2 production (“film-related space”); and (4) demonstrate a “special
3 economic importance” to the State, as measured by certain State
4 priorities determined by the EDA.

5 The bill establishes reduced square footage requirements for
6 certain transformative projects, as follows: (1) 200,000 or more
7 square feet of new or substantially renovated industrial,
8 commercial, or residential space for a project located in a
9 government-restricted municipality; and (2) 300,000 or more square
10 feet of new or substantially renovated industrial, commercial, or
11 residential space for a project located in an enhanced area. The bill
12 maintains the existing square footage requirements for any
13 transformative projects that do not meet these criteria.

14 Additionally, the bill increases the total project cost requirements
15 for transformative projects from \$100 million to \$150 million. The
16 bill also provides that only commercial projects would be required
17 to demonstrate a “special economic importance” in order to qualify
18 as transformative projects. However, when a redevelopment project
19 is located entirely on land designated as a brownfield development
20 area, and the project includes at least \$15 million in environmental
21 remediation costs, the bill provides that the redevelopment project
22 would be deemed to constitute a “special economic importance.”

23 Under current law, a residential project or mixed-use project that
24 qualifies as a transformative project is required to contain a
25 minimum number of residential units, which amounts vary
26 depending on the location of the project. The bill reduces the
27 number of residential units that are required to be included in these
28 projects. The bill also reduces the amount of commercial space,
29 from 100,000 square feet to 50,000 square feet, that is required to
30 be constructed within a residential project that includes less than
31 700 new residential units.

32 Under the bill, all transformative projects would be required to
33 be completed, and the developer would be required to receive a
34 certificate of occupancy for the project within five years of
35 executing the incentive award agreement. However, for a
36 transformative project completed in phases, the developer is
37 required to complete the project and receive a certificate of
38 occupancy for all phases of the project within 10 years of executing
39 either the incentive award agreement or the first transformative
40 phase agreement. Currently, all redevelopment projects are
41 required to be completed and receive certificates of occupancy
42 within four years, except that transformative projects that are
43 completed in phases are required to be completed within eight
44 years.

45 The bill removes the limitation on the number of transformative
46 projects that may be located within one municipality. Currently, the
47 EDA cannot award tax credits to more than two transformative
48 projects located within the same municipality.

1 *Additional Conditions of Incentive Award*

2 The bill revises several requirements of the Aspire Program,
3 which the developer of a redevelopment project may be required to
4 satisfy as a condition of receiving an incentive award.

5 Notably, the bill revises the circumstances in which a developer
6 would be exempt from the requirement to enter into a community
7 benefits agreement. Under current law, a developer that is
8 otherwise required to enter into a community benefits agreement is
9 exempt from this requirement when the developer provides the
10 EDA with an approval letter or redevelopment agreement, which is
11 certified by the municipality in which the project is located and
12 which includes provisions that meet or exceed the standards
13 required for community benefits agreements. Under the bill, the
14 developer would be considered to have met the requirements of the
15 community benefits agreement if the developer submits a resolution
16 to the EDA, which resolution was adopted by the governing body of
17 the municipality in which the redevelopment project is located after
18 at least one public hearing. Specifically, the resolution would be
19 required to state that the governing body has determined that the
20 redemption project will provide economic and social benefits to
21 the community that fulfill certain purposes, which benefits render a
22 separate community benefit agreement unnecessary, and explain the
23 reasons supporting the governing body's determination.

24 Additionally, the bill expands the allowance for certain
25 redemption projects to demonstrate a reduced net positive
26 benefit to the State. Currently, the developer of a redemption
27 project is required to demonstrate to the EDA that the award of tax
28 credits will result in a net positive benefit to the State in an amount
29 determined by the EDA, except not less than the amount of
30 requested tax credits. However, current law allows this net benefit
31 requirement to be reduced by up to 35 percentage points for any
32 project that is located in a government-restricted municipality.
33 Under the bill, this reduction in the net benefit requirement would
34 also apply to: (1) any commercial project that contains 50,000 or
35 more square feet of space devoted to research or technology focused
36 incubator and conferencing facilities for one or more institutions of
37 higher education or non-profit organizations, and which has a total
38 project cost of not less than \$50 million; and (2) any redemption
39 project that is predominantly commercial and that receives a federal
40 historic rehabilitation tax credit or a State tax credit under the
41 "Historic Property Reinvestment Act."

42 The bill also provides that the EDA may set a reduced net benefit
43 requirement for any redemption project that is undertaken by a
44 major cultural institution to renovate existing space or expand
45 services into additional space, and in which the major cultural
46 institution realizes all returns from the redemption project. As
47 defined in the bill, a "major cultural institution" includes any public
48 or nonprofit institution, except for an institution of higher

1 education, within this State that engages in the cultural, intellectual,
2 scientific, environmental, educational, or artistic enrichment of the
3 people of this State, and which institution is designated by the board
4 of the EDA as a major cultural institution.

5 The bill also provides an exception to the existing requirement
6 for certain workers, who are employed to perform building services
7 work at a redevelopment project, to be paid not less than the
8 prevailing wage rate. Under the bill, this requirement would not
9 apply to workers who are employed to perform building services
10 work by a tenant that has a leasehold interest in a redevelopment
11 project, which leasehold interest encompasses less than 5,000
12 square feet of space.

13
14 *Miscellaneous Program Changes*

15 The bill amends several other provisions of law governing the
16 Aspire Program, including expanding the scope of eligible incentive
17 areas under the program. Specifically, the bill amends the
18 definition of “incentive area” to also include any area designated as
19 a brownfield site pursuant to the "Brownfield and Contaminated
20 Site Remediation Act," provided that any portion of the brownfield
21 site is located in an area that otherwise qualifies as an incentive
22 area.

23 The bill also clarifies certain provisions of law governing the
24 duration of eligibility periods under the Aspire Program. Under
25 current law, after the EDA has approved an application for the
26 Aspire Program, the EDA is responsible for entering into an
27 incentive award agreement with the developer of the redevelopment
28 project. The incentive award agreement specifies the amount of the
29 tax credit award and the duration of the eligibility period, which
30 period may not exceed 15 years for a commercial or mixed-use
31 project or 10 years for a residential project. To reduce the total
32 value of tax credits needed to reimburse a developer for all or part
33 of the project financing gap of a redevelopment project, the bill
34 permits the EDA, in its discretion, to approve a duration for the
35 eligibility period that is shorter than the applicable maximum
36 periods.

37 Additionally, the bill requires the incentive award agreement to
38 include one or more provisions, as determined by the EDA,
39 concerning the terms and conditions for default and the remedies
40 for the developer of a redevelopment project in the event of default.
41 However, the EDA would not be permitted to declare a cross-
42 default when the developer of a redevelopment project, including
43 any business affiliate of the developer or any other entity with
44 common principals as the developer, defaults on any other
45 assistance program administered by the EDA.

46 The bill also amends current law to define the term “reasonable
47 and appropriate return on investment” under the Aspire Program,
48 which concept is used to determine a developer’s project financing

1 gap. In general, the bill defines this term in a manner consistent
2 with existing regulations. However, for any residential project that
3 utilizes federal LIHTCs and generates returns on equity other than
4 federal or local grants or proceeds from the sale of federal or local
5 tax credits, the bill provides that the calculation of “reasonable and
6 appropriate return on investment” would be based on both: (1) the
7 discount rate at which the present value of the future cash flows of
8 an investment equal the cost of the investment; and (2) with respect
9 only to the units financed with LIHTCs, the approval of deferred
10 developer fees pursuant to the rules established by the HMFA.

11 The bill also directs the Chief Executive Officer of the EDA to
12 adopt rules and regulations to implement the provisions of the
13 Aspire Program, as modified by this bill. Under the bill, these rules
14 and regulations would take effect immediately upon filing with the
15 Office of Administrative Law and would remain in effect for one
16 year. Thereafter, before the expiration of these rules and
17 regulations, the EDA would be required to amend, adopt, or readopt
18 rules and regulations in accordance with the “Administrative
19 Procedure Act.”

20

21 *Applicability to Prior and Future Applications*

22 Except in certain circumstances, the bill provides that all Aspire
23 Program applications completed after the date of enactment of this
24 bill would be subject to the provisions of this bill, including any
25 rules and regulations adopted by the EDA thereunder. In contrast,
26 all program applications completed on or before the enactment of
27 the bill would be subject to the existing provisions of law and
28 regulation governing the Aspire Program, except in certain
29 circumstances.

30 However, if a completed application for a residential project was
31 submitted within 121 days after the date of enactment, the applicant
32 receives all applicable approvals for the project under the
33 “Municipal Land Use Law” within such period, and the applicant
34 submits written notice to the EDA, the bill provides that the
35 application would be subject to some, but not all, of the provisions
36 of this bill. In this event, the bill requires the application to be
37 reviewed, approved, and administered in accordance with the
38 existing provisions of law and regulation governing the Aspire
39 Program, except for: (1) the determination of “reasonable and
40 appropriate return on investment,” as defined in the bill; and (2) the
41 limitations on total tax credit awards, as increased by the bill.

42 Additionally, the bill permits certain applicants to withdraw
43 pending applications for the Aspire Program. Specifically, an
44 applicant may withdraw any completed application that is pending
45 approval by the EDA on the date of enactment of this bill at any
46 time before the EDA approves or denies the application. In this
47 event, the EDA would be required to return all application fees paid
48 by the applicant, and the withdrawal may not serve to prejudice the

1 consideration of any program application submitted by the applicant
2 thereafter.

3

4 *Other Changes to “New Jersey Economic Recovery Act of 2020”*

5 The bill also provides additional changes to the “New Jersey
6 Economic Recovery Act of 2020,” which established the Aspire
7 Program, as well as several other economic development programs.
8 Under current law, the total value of tax credits awarded under
9 these economic development programs is limited to \$11.5 billion
10 over a seven-year period. The law also limits the amount of tax
11 credits that may be annually awarded under each of these programs
12 during certain years within this seven-year period.

13 Notably, the bill amends the “New Jersey Economic Recovery
14 Act of 2020” to increase the duration of this period from seven
15 years to nine years, thereby extending the period of operation of
16 these programs. As a part of this change, the bill also extends the
17 statutory deadline to apply for tax credits under the Emerge
18 Program from March 1, 2027 to March 1, 2029.

19 Additionally, the bill permits the EDA to annually transfer
20 certain tax credits otherwise allocated to the Aspire Program and
21 Emerge Program. Under current law, the total value of tax credits
22 to be awarded under the Aspire Program and Emerge Program, not
23 including transformative projects, may not exceed \$1.1 billion per
24 year over a six-year period, subject to certain carry-forward
25 authorizations. Current law also provides that the total value of tax
26 credits to be awarded for transformative projects under the Aspire
27 Program may not exceed an aggregate balance of \$2.5 billion.

28 Specifically, the bill provides that beginning in State Fiscal Year
29 2024, the EDA may transfer, from the annual allotment of tax
30 credits for the Aspire Program and Emerge Program, an amount not
31 to exceed \$500 million in tax credits for transformative projects
32 under the Aspire Program, provided that: (1) the remaining
33 allocation of tax credits otherwise available for transformative
34 projects is less than \$1 billion; and (2) the board of the EDA
35 determines that the transfer of tax credits is warranted based on
36 such criteria as the authority deems appropriate. However, if the
37 EDA elects to transfer these tax credits, the bill requires the EDA to
38 award no greater than 65 percent of the transferred tax credits to
39 transformative projects located in the northern counties of the State
40 and no greater than 35 percent of the transferred tax credits to
41 transformative projects located in the southern counties of the State.